A COLLECTION

OF

THE ACTS

PASSED BY THE

GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1880.

CALCUTTA
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING.
1881

CALCUTTA:
PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING
8 HASTINGS STREET

TITLES

OF

ACTS PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1880.

I. An Act to confer certain powers on Religious Societies.

II. to amend the law relating to District Cesses and Rural Police in British Burma.

III. to amend the law relating to Cantonments.

IV. to give effect to the Convention between the Governors General of British India and Portuguese India regarding the Extradition of Criminals, and to the twentieth Article of the Treaty between Her Majesty and the King of Portugal and the Algarves.

V. to provide for the demarcation of land and for the establishment and maintenance of boundary-marks in British Burma.

VI. to amend the law relating to the licensing of trades and dealings.

VII. to amend the law relating to Merchant Shipping, and for other purposes.

VIII. to correct a clerical error in the Indian Limitation Act, 1877.

IX. to amend the Bombay Civil Courts Act, 1869.

X. to declare the law in force in certain lands annexed to the Multán District.

XI. to provide for the appointment of an Additional Recorder of Rangoon, and for other purposes.

XII. for the appointment of persons to the office of Kázi.

XIII. to give power to prohibit inoculation, and to make the vaccination of children compulsory, in certain Municipalities and Cantonments.

XIV. to provide for certain matters in connection with the taking of the Census.

XV. to amend the Bombay Revenue Jurisdiction Act, 1876.

XVI. to regulate the Traffic on the Madras Irrigation and Canal Company's Canal.

ACT No. I OF 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 9th January, 1880).

An Act to confer certain powers on Religious Societies.

WHEREAS it is expedient to simplify the manner in which certain bodies of persons associated for the purpose of maintaining religious worship may hold property acquired for such purpose, and to provide for the dissolution of such bodies and the adjustment of their affairs and for the decision of certain questions relating to such bodies; It is hereby enacted as follows:— Preamble.

1. This Act may be called "The Religious Societies Act, 1880:" Short title.

It shall come into force at once; and Commencement.

shall extend to the whole of British India; Local extent.

but nothing herein contained shall apply to any Hindús, Muhammadans or Buddhists, or to any persons whom the Governor General in Council may, from time to time, by notification in the *Gazette of India*, exclude from the operation of this Act.

2. When any body of persons associated for the purpose of maintaining religious worship has acquired, or hereafter shall acquire, any property, Appointment of new trustee in cases not otherwise provided for.

and such property has been or hereafter shall be vested in trustees in trust for such body,

and it becomes necessary to appoint a new trustee in the place of or in addition to any such trustee or any

[*Price one anna and nine pies.*]

any trustee appointed in the manner hereinafter prescribed,

and no manner of appointing such new trustee is prescribed by any instrument by which such property was so vested or by which the trusts on which it is held have been declared, or such new trustee cannot for any reason be appointed in the manner so prescribed,

such new trustee may be appointed in such manner as may be agreed upon by such body, or by a majority of not less than two-thirds of the members of such body actually present at the meeting at which the appointment is made.

Appointment under section 2 to be recorded in a memorandum under the hand of the chairman of the meeting.

3. Every appointment of new trustees under section two shall be made to appear by some memorandum under the hand of the chairman for the time being of the meeting at which such appointment is made.

Such memorandum shall be in the form set forth in the schedule hereto annexed, or as near thereto as circumstances allow, shall be executed and attested by two or more credible witnesses in the presence of such meeting, and shall be deemed to be a document of which the registration is required by the Indian Registration Act, 1877, section seventeen.

Property to vest in new trustees without conveyance.

4. When any new trustees have been appointed, whether in the manner prescribed by any such instrument as aforesaid or in the manner hereinbefore provided, the property subject to the trust shall forthwith, notwithstanding any thing contained in any such instrument, become vested, without any conveyance or other assurance, in such new trustees and the old continuing trustees jointly, or, if there are no old continuing trustees, in such new trustees wholly, upon the same trusts, and with and subject to the same powers and provisions, as it was vested in the old trustees.

Saving of existing modes of appointment and conveyance.

5. Nothing herein contained shall be deemed to invalidate any appointment of new trustees, or any conveyance of any property, which may hereafter be made as heretofore was by law required.

6. Any

Provision for dissolution of societies and adjustment of their affairs.

6. Any number not less than three-fifths of the members of any such body as aforesaid may at a meeting convened for the purpose determine that such body shall be dissolved; and thereupon it shall be dissolved forthwith, or at the time then agreed upon; and all necessary steps shall be taken for the disposal and settlement of the property of such body, its claims and liabilities, according to the rules of such body applicable thereto, if any, and if not, then as such body at such meeting may determine:

Provided that, in the event of any dispute arising among the members of such body, the adjustment of its affairs shall be referred to the principal Court of original civil jurisdiction of the district in which the chief building of such body is situate; and the Court shall make such order in the matter as it deems fit.

Upon a dissolution no member to receive profit.

7. If upon the dissolution of any such body there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of such body or any of them, but shall be given to some other body of persons associated for the purpose of maintaining religious worship or some other religious or charitable purpose to be determined by the votes of not less than three-fifths of the members present at a meeting convened in this behalf, or in default thereof by such Court as last aforesaid.

Saving of certain provisions of instruments.

8. Nothing in sections six and seven shall be deemed to affect any provision contained in any instrument for the dissolution of such body, or for the payment distribution of such property.

Questions may be submitted to High Court.

9. When any question arises, either in connection with the matters hereinbefore referred to, or otherwise, as to whether any person is a member of any such body as aforesaid, or as to the validity of any appointment under this Act, any person interested in such question may apply by petition to the High Court for its opinion on such question. A copy of such petition shall be served upon, and the hearing thereof may be attended by, such other persons interested in the question as the Court thinks fit.

Any

Any opinion given by the Court on an application under this section shall be deemed to have the force of a declaratory decree.

The costs of every application under this section shall be in the discretion of the Court.

THE SCHEDULE.

(*See section 3.*)

Memorandum of the appointment of new trustees of the (*describe the church, chapel or other buildings and property*) situate
at a meeting duly convened and held for that purpose (*in the vestry of the said*) on the day of 18 , *A. B.* of Chairman.

Names and descriptions of all the trustees on the constitution or last appointment of trustees, made the day of

(*here insert the same*).

Names and descriptions of all the trustees in whom the said (*chapel and property*) now become legally vested.

First.—Old continuing trustees:—

(*here insert the same*).

Second.—New trustees now chosen and appointed:—

(*here insert the same*).

Dated this day of 18

Signed by the said *A. B.* as Chairman of the said Meeting, at and in the presence of the said Meeting on the day and year aforesaid in the presence of—

A. B.,
Chairman of the said Meeting.

C. D.
E. F.

Government Central Press.—No. 388 L. D.—21-1-80.—3,400.

THE BURMA DISTRICT CESSES AND RURAL POLICE ACT, 1880.

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[*Price three annas and three pies.*]

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ACT No. II OF 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21th January, 1880.)

An Act to amend the law relating to District Cesses and Rural Police in British Burma.

Preamble.

WHEREAS it is expedient to make better provision in British Burma for the maintenance of Rural Police and of a local postal service, the construction of works of public utility, sanitary improvement, and the promotion of education;

and whereas it is also expedient to declare and amend the law relating to Rural Police in the said Province; It is hereby enacted as follows:—

Preliminary.

Short title. Commencement.

1. This Act may be called "The Burma District Cesses and Rural Police Act, 1880":

and it shall come into force on such date as the Chief Commissioner of British Burma may, by notification in the local Gazette, direct.

Local extent.

It extends to all the territories for the time being administered by the said Chief Commissioner:

Provided that the said Chief Commissioner may, from time to time, by notification in the local Gazette, exempt any portion of the said territories from its operation and cancel such exemption:

Provided also that nothing herein contained applies to any town to which the British Burma Municipal Act, 1874, for the time being extends.

2. In

Interpretation-clause

2. In this Act, unless there is something repugnant in the subject or context,—

"land-revenue" means revenue assessed upon land under the provisions of the Burma Land and Revenue Act, 1876: and

"Revenue-officer" means any person appointed a Revenue-officer under the same Act.

Repeal

3. The following portions of the said Burma Land and Revenue Act, 1876, are repealed (namely): sections 31 and 32, in sections 37 and 46 the words "five per cent. cess," and the word "cess" wherever it occurs in the said Act; but all cesses imposed under that Act shall be deemed to have been imposed under this Act.

Cesses.

Cess on land

4. On all lands assessed to land-revenue there shall be levied in addition thereto an annual cess of ten per cent. on the amount of such revenue.

Saving of existing house-tax

5. In every town, village or hamlet in which at the date on which this Act comes into force a house-tax is levied, such tax shall continue to be levied.

Cess on houses

6. The Chief Commissioner may from time to time, by notification in the local Gazette, direct that in any specified town, village or hamlet there shall be levied from the occupier of each house an annual cess, to be fixed in manner hereinafter provided, but which shall in no case exceed two rupees:

Provided that such cess shall not be levied—

(*a*) in any place in which the house-tax referred to in section five is levied, or

(*b*) in respect of any monastery, pagoda, sacred building, Government-building, public rest-house or school:

Provided also that in respect of any house occupied by a person bound to pay cess under section four no larger amount shall be levied under this section than will, together with the cess so payable by such person, amount to two rupees.

"House"

"House" in this section means any building used as a human dwelling or for the custody of property.

Power to abolish or exempt from cess or tax.

7. The Chief Commissioner may from time to time, by notification in the official Gazette, direct that any tax or cess levied in any place under section five or section six shall cease, or that any person or class of persons shall be exempted from the whole or any specified part of such tax or cess.

Powers of Deputy Commissioner

8. Subject to the other provisions of this Act and to any rules made hereunder and for the time being in force, the Deputy Commissioner of the district may from time to time—

(*a*) declare what shall for the purposes of this Act be held to be a house;

(*b*) fix the amount of cess to be levied in respect of each house;

(*c*) remit such cess in whole or in part.

Purposes to which funds are to be applied.

9 A separate account shall be kept for each district of all cesses and house-tax levied under this Act in such district; and such cesses and tax shall be appropriated in each year in that district, in such proportions as the Chief Commissioner may from time to time direct, to all or any of the following local objects (namely):—

(*a*) the maintenance of the Rural Police appointed under this Act;

(*b*) the maintenance of a local postal service;

(*c*) the construction and maintenance of district-roads and other communications, and the improvement of river-channels;

(*d*) other works of public utility;

(*e*) sanitary improvement; and

(*f*) the promotion of education:

Provided that the Chief Commissioner may, on the thirty-first day of March in any year, transfer the whole or part of any balance then standing under either of the heads (*b*) or (*c*) in the account of any district

district to the corresponding head in the account of any other district in the same division.

Time and mode of payment of cesses, &c

10. All cesses and house-tax levied under this Act shall be payable for the year of assessment of land-revenue as fixed under the Burma Land and Revenue Act, 1876, section 41, and shall be payable at the place at which and to the person to whom the land-revenue is from time to time payable, or at such other place and to such other person as the Chief Commissioner may direct.

Sums assessed on the amount of land-revenue shall fall due on the date on which the land-revenue falls due.

Sums assessed on houses shall fall due on such dates as the Chief Commissioner may from time to time in that behalf direct.

Realization of cesses, &c

11. All sums assessed under this Act on the amount of any land-revenue may be recovered as if they were part of such revenue.

All other sums payable under this Act may be recovered in the manner prescribed in sections 44 and 45 of the Burma Land and Revenue Act, 1876.

Rural Police.

Rural Police

12. The Rural Police shall be of two classes—

(*a*) headmen of hamlets or groups of hamlets, or of villages or towns, or sections of villages or towns, hereinafter called headmen;

(*b*) headmen of circuits, hereinafter called goungs.

Appointment of Rural Police

13. Subject to the rules made under this Act and for the time being in force, the Deputy Commissioner of the district shall have power to appoint, suspend and remove headmen and goungs, and to fix the limits of the beats of headmen and the circuits of goungs:

Provided that all kyaydangyees and yazawut goungs holding office as such in any local areas on the date on which this Act comes into force shall be deemed to be respectively headmen and goungs appointed

appointed under this Act, and such local areas shall be deemed to have been fixed as their beats and circuits respectively under this Act.

Duties of headmen

14. Every headman shall perform the following duties (namely) :—

(*a*) he shall give immediate information to the goung of the circuit in which his beat is situated, or the officer in charge of the police-station appointed for his beat, of all disputes within his beat which may come to his knowledge and which are likely to lead to any riot or serious affray :

(*b*) he shall report to the goung or Police-officer aforesaid the arrival in, or in the neighbourhood of, his beat of suspicious characters and of persons who have been convicted under the Indian Penal Code, chapter XII (*Of offences relating to coin and Government-stamps*) and chapter XVII (*Of offences against property*), and the movements of all bad characters within his beat :

(*c*) he shall report to the goung or Police-officer aforesaid all breaches of laws and rules relating to excise and opium which occur within his beat and come to his knowledge .

(*d*) he shall to the best of his ability supply any local information which any Magistrate or Revenue-officer or officer of police may require, and promptly execute all lawful orders issued to him by or by authority of the Deputy Commissioner :

(*e*) he shall attend the Revenue-officer of the circle, so long as such officer is within his beat for the purpose of assessing or collecting land-revenue, cesses or taxes, and shall give him all available information regarding the cultivation of land and other matters relating to the revenue :

(*f*) he shall, in accordance with such rules as may from time to time be made by the Chief Commissioner, keep up a register of all births, marriages and deaths within his beat, and collect and register any

any other vital statistics which may be prescribed by such rules:

(*g*) he shall afford all assistance in his power to Government-officers, and, on the order of the Deputy Commissioner, to other persons, in procuring food, labour, carriage and other requisites of travel.

Duties of goungs.

15. The duties of a goung in respect of his circuit shall, *mutatis mutandis*, be the same as those of a headman in respect of his beat.

Power of headmen and goungs to demand help.

16. For the purpose of preventing the commission of any offence or arresting any offenders whom he is authorized to arrest, any headman or goung may require any male person between the ages of eighteen and sixty within his beat or circuit at the time to assist him in preventing the commission of such offence or in making such arrest, and in guarding and escorting the person arrested.

Obligation to render help.

Every person as aforesaid shall, in the absence of reasonable excuse, the burden of proving which shall lie upon him, be bound to comply with any requisition made to him under this section.

Powers and duties of Police-officers may be conferred and imposed on headmen and goungs.

17. The Chief Commissioner may from time to time, by notification in the local Gazette, make rules consistent with this Act—

(*a*) conferring upon headmen and goungs any powers, protection or privileges which may be exercised or enjoyed by a Police-officer under any enactment for the time being in force;

(*b*) imposing upon headmen and goungs any duties imposed on a Police-officer by any enactment for the time being in force; and

(*c*) regulating the exercise, enjoyment and discharge of such powers, protection, privileges and duties by such headmen and goungs.

Penalties for breach of duty.

18. Every headman or goung who—

(*a*) is guilty of cowardice or of wilful misconduct in his office, or of neglect of duty; or

(*b*) except

(*b*) except with the permission of the Deputy Commissioner, withdraws from the duties of his office without having given to the Deputy Commissioner at least two months' notice of his intention to withdraw from such duties; or

(*c*) offers any unnecessary personal violence to any person in his custody,

may, in addition to any other penalty to which he may be liable, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or both.

Bar of prosecution.

No complaint against a headman or goung of any act or omission punishable under this section shall be entertained by any Court unless the prosecution is instituted by order of or under authority from the Deputy Commissioner.

Limitation of prosecution.

19. No prosecution against any person for anything purporting to be done under section fourteen, fifteen or sixteen, or under any rule made in exercise of the powers conferred by section seventeen, shall be commenced after the expiration of three months next after the act complained of has been committed.

Notice of suit to be given.

No suit shall be brought for anything so purporting to be done until the expiration of one month next after notice in writing has been delivered at the residence of such person, or at the office of the Deputy Commissioner of the district in which the act was done, stating the cause of suit and the name and place of abode of the plaintiff.

Previous tender of amends.

If any person to whom any such notice of suit is given shall before such suit is brought tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Protection to officers acting under warrant.

20. No prosecution shall be instituted against any headman or goung for any act done by him in such capacity, under the authority of a warrant issued by a Magistrate, notwithstanding any defect of jurisdiction in such Magistrate.

Miscellaneous.

Miscellaneous.

Help in cases of dacoity and robbery

21. If within or in the immediate neighbourhood of any town, village or hamlet a dacoity or a robbery is committed or attempted, or dacoits or robbers are harboured, sheltered or assisted, and if the inhabitants of such town, village or hamlet without reasonable excuse fail to render active assistance in preventing the offence or in arresting and securing the offenders, the Chief Commissioner may, after such enquiry as he deems necessary, impose upon such town, village or hamlet, or upon any section thereof, a fine, to be assessed upon the inhabitants according to his judgment of their respective means and of the circumstances of the case.

Powers and duties of revenue officers

22. For the purposes of this Act, the Chief Commissioner may from time to time, by notification in the local Gazette, invest any Revenue-officer with any of the powers, and impose on him any of the duties, with which he may invest him or which he may impose upon him under the Burma Land and Revenue Act, 1876, and the rules framed under it.

Control of Commissioner and Chief Commissioner

23. All proceedings of any Deputy Commissioner or Revenue-officer under this Act shall be subject to control, revision and alteration by the Commissioner to whom he is subordinate and by the Chief Commissioner.

Power to make rules

24. The Chief Commissioner may from time to time make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement.

All such rules and all other rules made under this Act shall be published in the local Gazette, and shall thereupon have the force of law.

Government Central Press.—No 469 L D—10 2 80—3,400

THE CANTONMENTS ACT, 1880.

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[*Price four annas*]

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ACT No. III OF 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL

(Received the assent of the Governor General on the 30th January 1880)

An Act to amend the law relating to Cantonments.

Preamble. WHEREAS it is expedient to amend the law relating to cantonments; It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY.

Short title. 1. This Act may be called "The Cantonments Act, 1880."

Local extent. This section, section two and section twenty-four apply to the whole of British India. The remaining portions of this Act extend to the whole of British India except the territories respectively administered by the Governor of Fort St. George in Council and the Governor of Bombay in Council. The Governor of Fort St. George in Council or the Governor of Bombay in Council may, by notification in the official Gazette, extend any such portion to any place under his administration; and, from the date on which any such portion is so extended to any place such of the enactments for the time being in force in such place as are in any way inconsistent with, or repugnant to, such portion shall cease to have effect in such place.

Enactments inconsistent with this Act in Madras and Bombay cantonments

Repeal of Act XXII of 1864 2. Act No. XXII of 1864 (*to provide for the administration of Military Cantonments*) is hereby repealed; but all orders, declarations, rules and regulations made, powers conferred, and Courts established under that Act, shall be deemed to be respectively made, conferred and established under this Act

All

References to Act XXII of 1864.

All references to the said Act No. XXII of 1864 in enactments passed subsequently thereto shall be read as if made to this Act.

CHAPTER II.

CRIMINAL JURISDICTION.

Cantonment Magistrate

3. Every person invested by the Local Government, under the Code of Criminal Procedure, with the powers of a Magistrate of the first class within the limits of any cantonment, shall be styled the Cantonment Magistrate, and shall be deemed a Magistrate in charge of a division of a district within the meaning, and for the purposes, of the said Code.

Assistant Cantonment Magistrate

4. Every person invested by the Local Government, under the provisions of the said Code, with the powers of a Magistrate of the second or third class within the limits of any cantonment, shall be styled the Assistant Cantonment Magistrate.

CHAPTER III.

CIVIL JURISDICTION.

Small Cause jurisdiction of Cantonment Magistrate

5. Whenever the Local Government establishes within the limits of any cantonment a Court of Small Causes under Act No. XI of 1865 (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature*), the Cantonment Magistrate, if there be a Cantonment Magistrate, shall be the Judge of the Court so established.

The Local Government shall declare and may from time to time alter the pecuniary limit of the jurisdiction of every such Court, but such limit shall in no case exceed five hundred rupees.

Small Cause Jurisdiction of Assistant Cantonment Magistrate.

6. The Local Government may invest any Assistant Cantonment Magistrate with the powers of a Judge of a Court of Small Causes to try suits instituted in any Court referred to in section five; provided that

that no Assistant Cantonment Magistrate shall have jurisdiction to try suits for an amount exceeding fifty rupees.

Act XI of 1865 to apply to all Small Cause Courts in cantonments.

7. All the provisions of the said Act shall be applicable to every such Court, and to all suits instituted in any such Court, except as is herein otherwise provided.

Military courts of requests

8. Whenever a Court of Small Causes is established in any cantonment, the jurisdiction exercised in such cantonment by any officer under Act No. III of 1859 (*for conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates*) shall cease and so much of any Act as authorises the commanding-officers of stations or cantonments to convene military courts of requests for the trial of actions of debt and other personal actions, shall cease to have effect within the limits of such cantonment.

CHAPTER IV

POLICE.

Act V of 1861 applicable to Police employed in cantonments.

9 The Police-force employed in any cantonment shall be deemed to be part of the general Police-force under the Local Government in whose territories such cantonment is situate, within the meaning of Act No. V of 1861 (*for the Regulation of Police*), section two, and all the provisions of the said Act shall be applicable to such force.

Administration of Police within cantonments.

The administration of the Police within the limits of any cantonment in which there is a Cantonment Magistrate shall be vested in the District Superintendent subject to the general control and direction of the commanding-officer of such cantonment.

Extension of section 34, Act V of 1861, to cantonments.

10. The Local Government may extend section thirty-four of the said Act No. V of 1861 to any cantonment situate in the territories administered by such Government.

Service of process sent by commanding-officer of cantonment

11. The commanding-officer of a cantonment may send any process requiring service or execution by any means not immediately at his disposal to the chief Police-officer in the cantonment for service or execution

tion through the cantonment-police; and the said chief Police-officer shall serve or execute such process in the same manner as if it had been issued by the Cantonment Magistrate, and subject to the same rules.

Power to extend Act XX of 1856 to cantonments.

12. The Local Government may, by notification in the official Gazette, extend the provisions of Act No. XX of 1856 (*to make better provision for the appointment and maintenance of Police Chaukidárs in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal*), to any cantonment to which a Cantonment Magistrate may be appointed; and the Cantonment Magistrate of any cantonment to which the said Act is so extended may exercise all the powers vested in a Magistrate by that Act subject only to the control of the Magistrate of the District and the Local Government.

Whenever any such Cantonment Magistrate is absent, or when his office is temporarily vacant, the Magistrate of the District shall, during such absence or until the Local Government fills up the vacancy, carry out the provisions of the same Act when so extended as aforesaid.

Power to order division of cantonments, &c.

13. The Local Government may order that any cantonment to which the provisions of the said Act No. XX of 1856 are extended shall be divided into any number of cantonment-divisions, and may determine the nature of the tax to be levied in each such division according to section ten of the same Act.

CHAPTER V.

SPIRITUOUS LIQUORS.

Unauthorized sale of spirituous liquor

14. If within any cantonment, or within any limits around such cantonment prescribed by the Local Government, any person not amenable to the Articles of War, or any sutler or camp-follower, knowingly barters, sells or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor, wine or intoxicating drug to, or for the use of, any European soldier, or to or for the use of any European or Eurasian

sian being a camp follower or a soldier's wife, without a written license from the Officer Commanding or from some person authorized by the Officer Commanding to grant such license, the person so bartering, selling or supplying, or offering or attempting to barter, sell or supply, such liquor, wine or drug, shall be liable on conviction to fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to three months, or, in lieu of such fine or imprisonment, to the punishment of whipping, as prescribed for offences under section two of Act No. VI of 1864 (*to authorize the punishment of whipping in certain cases*), subject to all the provisions of that Act.

Presumption in case of second conviction

15. If any person convicted of an offence under section fourteen is again convicted of an offence under that section, any spirituous liquor, wine or intoxicating drug within such cantonment or limits which, at the time of the commission of such subsequent offence, belongs to him, or is in his possession shall, without further proof, be deemed to be in his possession for the purpose of being supplied to European soldiers contrary to the provisions of this Act.

Penalty on certain persons having in possession within cantonments more than certain quantity of spirituous liquor, &c., without permit

16. If within such cantonment or limits any camp-follower or military pensioner, or the wife or the widow of any soldier, camp-follower or military pensioner, removes, conveys or has, in his or her possession, any quantity of spirituous liquor or wine exceeding one ser or quart, without a permit to be signed by the officer in command, or such other officer as may be appointed by him to grant permits under this Act, every such person shall be liable upon conviction to fine which may extend to fifty rupees, and for any subsequent offence to fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to three months: provided that nothing in this section contained shall apply to any liquor brought into a cantonment for the private use of any commissioned officer.

Arrest of offenders under section 14 or 16, and seizure of

17. If any person subject to the provisions of this Act is found committing any offence contrary to section fourteen or section sixteen, any Police-officer may

spirituous liquor, &c.

may immediately without warrant arrest such person, and also seize any spirituous liquor, wine or intoxicating drug, together with any vessel containing the same, and anything used for the purpose of removing, conveying or concealing the same, which may be found in his possession, and shall thereupon without delay take such person, together with the things so seized, before the Cantonment Magistrate or other officer having jurisdiction to punish the offender.

Confiscation of such liquor, &c

18 In case of a conviction for any offence under section fourteen or section sixteen, the Cantonment Magistrate or other officer may adjudge any liquor, wine or intoxicating drug in respect of which the accused is convicted, and any other spirituous liquor, wine or intoxicating drug found in his possession at the time of committing the offence, and any vessel containing the same, together with anything used for the purpose of conveying, removing or concealing the same or any part thereof, to be confiscated; and such Magistrate or officer may order the whole or any part or parts of any fine imposed under this Act to be paid, as soon as the same is realized, to the person upon whose information such conviction takes place, or to the officer who has apprehended the offender or seized any of the goods adjudged to be confiscated.

Detention of property seized

19. Anything seized under section seventeen in respect of which any person is charged with an offence under this Act may be ordered to be detained until the person in whose possession the same has been seized is convicted or acquitted of the offence charged.

Disposal of property seized.

If such person is acquitted, anything so seized shall be restored; if he is convicted, such of the things only, if any, as are not adjudged by the Cantonment Magistrate or other officer to be confiscated shall be restored: the remainder shall be dealt with as confiscated.

Saving of articles sold or supplied for medicinal purposes.

20. The foregoing sections shall not apply to the sale or supply of any article for medicinal purposes by recognized medical practitioners, chemists or druggists.

CHAPTER VI

CHAPTER VI

MUNICIPAL TAXATION.

General power of taxation.

21. The Local Government may from time to time, with the previous sanction of the Governor General in Council, by notification in the official Gazette, impose in any cantonment any tax which, under any enactment in force at the date of such notification, can be imposed in any municipality within the territories administered by such Government, and may, with the like sanction and by a like notification, abolish any tax so imposed.

Power to provide for assessment and collection of taxes.

22. When any tax is leviable in a cantonment under section twenty-one, the Local Government may, from time to time, by notification in the official Gazette, apply or adapt to such cantonment the provisions of any enactment or rules in force at the date of such notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

Application of proceeds of taxes.

23. The proceeds of all taxes levied in any cantonment under section twenty-one shall, after defraying therefrom the cost of assessing and collecting the same, be applied in such cantonment, under the directions of the Local Government, to the maintenance of the Police-force and the carrying out of measures under the rules made under section twenty-five.

Power to prohibit taxation in cantonments.

24. Notwithstanding anything contained in any enactment for the time being in force, the Governor General in Council may, by an order in writing, prohibit the levy of the whole or any part of any tax in any cantonment, or exempt any person by name or in virtue of his office, or any class of persons, from the operation of any such tax, and may, by a like order, rescind any such prohibition or exemption.

CHAPTER VII.

SUBSIDIARY RULES.

Power to make cantonment-rules.

25. The Local Government may from time to time make rules consistent with this Act to provide within the

the limits of any cantonment for the matters hereinafter mentioned.

Rules may be general or special

The rules made under this section may be general for all cantonments in the territories administered by the Local Government making the same, or special for any one or more of such cantonments, according as the Local Government directs.

Rules to be confirmed by Governor General in Council

26 No rule made under section twenty-five shall have effect until the same has been confirmed by the Governor General in Council. A copy of every such rule when so confirmed, in English and in the vernacular language chiefly in use, shall be hung up in some conspicuous part of the office of the Cantonment Magistrate, or in such other place as the Local Government or the commanding-officer directs.

For what matters rules may provide

27. The rules made under section twenty-five may provide for all or any of the following matters:—

1st—regulating, in cases in which the land within the limits of the cantonment is the property of Government, and the occupation and use of which by private persons is only permissive, the conditions under which such occupation or use shall be allowed, and under which the Government may resume possession of such land, and under which compensation shall be given to persons occupying or using the land so resumed;

2nd—maintaining proper registers of immoveable property within the limits of the cantonment, and providing for the registration of transfers of such property;

3rd—regulating the manner in which houses within the limits of the cantonment shall be claimable for purchase or hire, when necessary, for the accommodation of military officers;

4th—regulating the management and expenditure of any funds made available by law or by the Government for the purpose of public improvements within the limits of the cantonment, or for carrying out any rules made under section twenty-five; and the appointment of the necessary servants and establishments;

5th—the definition and prohibition of public nuisances;

6th—the

6th—the maintenance generally of the cantonment in a proper sanitary condition; the prevention and cure of disease; the management and regulation of the public roads, of conservancy and drainage; the regulation and inspection of public and private necessaries, urinals, cess-pools, drains, and all places in which filth or rubbish is deposited, of slaughter-houses, public markets, burial and burning grounds and of all offensive or dangerous trades and occupations;

7th—inspecting and controlling brothels and preventing the spread of venereal disease;

8th—the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use;

9th—the execution and promotion of works of public utility and convenience;

10th—the registration of deaths, and the making and recording observations and facts important for the public health and interest;

11th—the imposition of penalties on persons convicted of the breach of any rule made under section twenty-five, and declaring what persons shall make the preliminary inquiry into or take cognizance of any breach of such rules and the manner in which the investigation shall be conducted: provided that no penalty so imposed shall exceed a fine of fifty rupees, or imprisonment for eight days.

Trial of breaches of rules.

28. Breaches of any rule made under section twenty-five shall be triable by the Cantonment Magistrate when there is such an officer: but the Local Government may invest any Assistant Cantonment Magistrate, or any other person, with powers to try such breaches, and may authorize such person to exercise such powers independently of the Cantonment Magistrate.

There shall be no appeal in any case tried under this section; but every person trying any such case shall, for the purposes of Chapter XXII of the Code of Criminal Procedure, be deemed to be subordinate to the High Court, the Court of Session and the Magistrate of the District.

29. In

Fine how levied

29 In every case in which an offender is sentenced to a fine for the breach of any rule made under section twenty-five, the amount may in case of non-payment be levied by distress and sale of any moveable property of the offender which may be found within the limits of the cantonment.

Imprisonment in case fine not levied

If no such property sufficient for the payment of the fine can be found, the offender shall be liable to simple imprisonment for any term which may extend to one month.

Prosecutions, &c under other enactments

30. Nothing in this Act, nor in any rule made under section twenty-five, shall prevent any person from being prosecuted under any other enactment for any offence punishable under this Act, or from being liable under any other enactment to any other or higher penalty than is provided for such offence by this Act: Provided that no person shall be punished twice for the same offence.

Extension of rules as to brothels and venereal disease

31 Whenever it appears necessary for the protection of the health of the troops in any cantonment, the Governor General in Council may extend to any place outside the limits of such cantonment, and in the vicinity thereof, all or any of the rules made for such cantonment for inspecting and controlling brothels and preventing the spread of venereal disease and make any additional rules consistent with this Act for providing for the same matters, and may define the limits around such cantonment within which such rules or additional rules shall be in force.

Penalties for breach of rules in extended limits

32. When such rules, with any additional rules made as aforesaid, are extended under section thirty-one to any place outside the limits of such cantonment, the Governor General in Council may provide, in the manner described in clause eleven of section twenty-seven, for the imposition of penalties for the breach of such rules and for prescribing the manner in which, and the persons by whom, breaches of such rules shall be inquired into or be cognizable.

Effect of cantonment-rules on enactments

33 Whenever, in any cantonment, rules have been made under section twenty-five, so much of any enactment as may be held to empower the commanding-officer

ing-officer to make local regulations regarding matters other than military shall cease to have any effect in such cantonment, and all local regulations for any cantonment which may have been made before the promulgation of the rules for such cantonment made under section twenty-five, shall cease to have any effect. previously in force

34 Nothing in the foregoing sections shall be deemed to affect the jurisdiction or military authority of Courts-martial or of commanding-officers of cantonments or of regiments, corps or detachments under any Articles of War, or the provisions of any Statute for punishing mutiny and desertion of officers and soldiers in the service of Her Majesty in the East Indies; and the Cantonment Magistrate shall exercise no jurisdiction in respect of such offences. Saving of jurisdiction of Courts-martial, &c

Provided that, when a Cantonment Magistrate or other officer not being the commanding-officer has been invested by the Local Government with power within the limits of any cantonment to dispose of cases under any rule made under section twenty-five, the commanding-officer shall not exercise the powers described in clause (*c*) of Part III of the Indian Articles of War in respect of any case arising under such rule when such rules have been passed for such cantonment under section twenty-five and penalties have been laid down for their infringement.

The said rules shall be held to be the rules mentioned in the said last mentioned clause, and so much of the same clause as declares the penalties which may be inflicted for breach of cantonment-regulations shall cease from that time to have any effect in such cantonment.

35. The Local Government may from time to time prescribe rules for regulating the expenditure, for the general purposes of this Act, of any funds raised under the said Act No. XX of 1856. Such funds may be expended for the purpose of carrying out any measures under any of the rules made under section twenty-five or section thirty-one of this Act, in addition to or in lieu of the purposes described in section thirty-six of the said Act No. XX of 1856. Power to prescribe rules as to expenditure of funds raised under Act XX of 1856

Govt Central Press.—No 500 L D.—10 2 80 —3,400

ACT No. IV of 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 30th January 1880.)

An Act to give effect to the Convention between the Governors General of British India and Portuguese India regarding the Extradition of Criminals, and to the twentieth Article of the Treaty between Her Majesty and the King of Portugal and the Algarves.

WHEREAS, by the nineteenth article of the Treaty of Commerce and Extradition between Her Majesty and the King of Portugal and the Algarves, executed at Lisbon on the twenty-sixth day of December, 1878, and ratified on the sixth day of August, 1879, it was provided that the High Contracting Parties should deliver up to each other those persons who, being accused or convicted of crimes committed in the Indian dominions or jurisdiction of the one party, should be found in the Indian dominions or jurisdiction of the other party, and that the circumstances and conditions under which, and the crimes for which, such persons should be delivered up should form the subject of a separate Convention between the Governors General of British India and Portuguese India, to be executed at the earliest date possible after the ratification of the said Treaty, and that such Convention should have the same binding character as the said Treaty, and should continue in force for the same period;

and whereas, in pursuance of the said article, the Convention

[*Price three annas and nine pies*]

Convention set forth in the schedule hereto annexed has been executed;

and whereas by the twentieth Article of the said Treaty it was provided that Commissions issued in criminal trials and enquiries by the judicial tribunals of the one party, for the examination of persons resident in the dominions of the other, should be executed according to the provisions of the laws of the dominions where the witness resides;

and whereas it is doubtful whether under the existing law of British India there is authority to give effect to all the provisions of the said Convention and of the said twentieth Article;

It is hereby enacted as follows:—

Provisions of Convention to be followed

1 The provisions of the said Convention shall be followed in British India in every case to which they apply.

Procedure

The procedure prescribed in the Code of Criminal Procedure shall, in so far as it is not inconsistent with the said Convention, be followed in every such case.

Execution of commissions issued by Portuguese Criminal Courts

2. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in Portuguese India in like manner as it may be obtained in relation to any civil matter under the Code of Civil Procedure, chapter XXV; and the provisions of that chapter shall be construed as if the term "suit" included a proceeding against a criminal.

Short title

3 This Act may be called "The Portuguese Treaty Act, 1880"

THE SCHEDULE.

Whereas by the nineteenth Article of a treaty dated the twenty-sixth day of December, 1878, and ratified on the sixth day of August, 1879, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Most Faithful Majesty the King of Portugal and the Algarves, it is provided that the High Contracting Parties engage to deliver up to each other those

] ersons

persons who, being accused or convicted of crimes committed in the Indian dominions or jurisdiction of the one party, shall be found in the Indian dominions or jurisdiction of the other party; and whereas by the same article it is further provided that the circumstances and conditions under which, and the crimes for which, such persons are to be delivered up, shall form the subject of a separate Convention between the Governors General of British India and Portuguese India, to be executed at the earliest date possible after the ratification of the said Treaty.

In pursuance of the said article, the undersigned Governors General of British India and Portuguese India, acting respectively on behalf of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Most Faithful Majesty the King of Portugal and the Algarves (hereinafter called the High Contracting Parties), have agreed that the said persons shall be so delivered up under the circumstances, and subject to the exceptions, hereinafter stated, namely:—

(*a*) When the crime for which extradition is claimed has been committed beyond the dominions of the party claiming, the requisition shall also be complied with, if the laws of the party applied to authorize a prosecution for such crime when committed beyond his dominions, and if the person claimed is a subject of the party claiming his extradition.

(*b*) The crimes for which the extradition shall be granted are the following —

British Indian Penal Code		Portuguese Penal Code	
Crime	Section	Crime	Article
Murder culpable homicide not amounting to murder and causing death by rash or negligent act	299 to 304A	Voluntary homicide including—	349
		Parricide	345
		Poisoning	353
		Infanticide	356
		And involuntary homicide caused by negligence	360
Attempt to commit murder or culpable homicide	307 308 511	Attempt at homicide	350 6 to 11
Voluntarily causing hurt or grievous hurt	319 to 326 335 and 338	Wounding causing contusions or hurts	359 to 367 369
		Ordinary hurts under Articles 359 and 360 being exempted in the circumstances described in Articles 370 377 and 378	
Rape	375 and 376	Rape	394 396 to 397
Kidnapping abduction concealing kidnapped person slave dealing or selling a minor for immoral purposes	360 to 373	Kidnapping and hiding of minors	342 to 344
Immodest assault on a woman	354	Immodest assault on a woman	391
Causing miscarriage and abortion	312 to 316	Abortion	358
Exposure or abandonment of a child	317	Exposure or abandonment of a child	345 to 346
Thefts	378 to 382	Thefts	421 424 to 431
Extortions, robberies dacoities attempts to commit robbery and belonging to a gang of thieves	383 to 402	Robbery	432 to 444
Criminal misappropriations and criminal breach of trust	403 to 409	Theft	313 423 to 425 433
Receiving stolen property	410 to 414	Receiving stolen property	663
Cheating	415 to 420	Cheating false pretences	450 to 452 456
Lurking house trespass house breaking	443 to 446	House-breaking	380 clause 1
Fraudulent bankruptcy and fraudulent disposition of property	206 209 421 to 424	Fraudulent bankruptcy and fraudulent disposition of property	447 to 449 455
Dishonest opening of closed receptacle containing property	461 and 462	Dishonest opening or breaking of seals by public servants and others	310 to 312
Being a thug	310 311	Association of malefactors	263
Belonging to a band of dacoits or robbers	400 401		
Aggravated cases of wrongful confinement	344 to 348	Aggravated cases of wrongful confinement	331 to 333
Mischief by fire or explosive substance	435 436 and 438	Arson	405 to 474

British Indian Penal Code		Portuguese Penal Code	
Crime	Section	Crime	Article
Mischief to a vessel or after preparation to cause death hurt, or wrongful restraint	437 439 440	Aggravated cases of mischief	475 and 481
Counterfeiting or altering money or uttering counterfeit or altered money making or possessing instruments for above purposes	230 to 254	Counterfeiting or altering money or uttering counterfeit or altered money making or possessing instrument for above purposes	206 to 214
Counterfeiting or fraudulently using of Government-stamps issued for purposes of revenue	255 to 263	Counterfeit or fraudulent using of Government-stamps or stamped paper	228 and 229
Forgery and using of forged documents and making of seals for fraudulent purposes	463 to 468 470 to 477	Forgery and using of forged documents and making of seals for fraudulent purposes	215 to 217; 219 to 222; 230 and 231
Use of false trade mark or property mark and frauds connected with such marks	478 to 481	Use of false trade-mark or property mark and frauds connected with such marks	230 and 231
Giving or fabricating false evidence to cause a person to be convicted of an offence and subornation of the same	194 and 195	Giving or fabricating false evidence to cause a person to be convicted of an offence and subornation of the same	238 to 240
Illegal gratification taken by a public servant or to influence a public servant	161 to 165	Illegal gratification taken by a public servant, or to influence a public servant	214 to 226 462
Causing the evidence of the commission of any offence to disappear	201	Causing the evidence of commission of an offence mentioned in this Convention to disappear	464
False certificate or declaration made by public servant or used by any person as evidence	197 to 200	False certificate or declaration made by public servants or used by any person as evidence	216 to 218; 231 and 232
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Piracy by law of nations		Piracy	162
Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm		Voluntary homicide as above	349 353 355 356
		Portuguese Maritime Code	
Sinking or destroying a vessel at sea or attempting or conspiring to do so		Loss or destruction of vessel caused by a person on board	43
Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master		Act of revolt committed by more than third of crew	46

The extradition shall also take place for complicity or participation in any of the aforesaid crimes, and for any attempt to commit any such crime, provided such complicity, participation or attempt be punishable by the laws of both the High Contracting Parties.

(*c*) No British subject by birth or naturalization shall be delivered up by the Government or authorities of British India to the Government or authorities of Portuguese India; and, in like manner, no Portuguese subject by birth or naturalization shall be delivered up by the Government or authorities of Portuguese India to the Government or authorities of British India. Naturalization after the commission of the crime shall not be an obstacle to the extradition.

(*d*) The Governor General of British India will, from time to time, communicate to the Governor General of Portuguese India a list of Native States which, with the subjects thereof, are entitled to be placed, for the purposes of this Convention, upon the same footing as British India and the subjects of Her Britannic Majesty.

(*e*) The extradition shall not take place if the person claimed has already been tried and acquitted, or punished, for the same crime for which extradition is asked. If he should be under trial for any other crime, his extradition shall be deferred until the conclusion of the trial; and if the execution of the sentence, if any, would interfere with the extradition, it shall be postponed, in order that the extradition may take place If upon extradition he be sentenced to other further punishment, the two High Contracting Parties shall arrange that the punishments shall be fulfilled according to priority of date of sentence.

(*f*) The extradition shall not take place if, after the commission of the crime, or the institution of the prosecution or the conviction thereon, the person claimed shall have acquired exemption from prosecution, or punishment, by lapse of time, according to the laws of the State applied to.

(*g*) A

(*g*) A person surrendered shall not be kept in prison or brought to trial, by the party to whom the surrender is made, for any other crime or on account of any other matters than those for which the surrender has been granted. This stipulation is not applicable to crimes committed after the extradition.

(*h*) If the person whose extradition is claimed by one of the High Contracting Parties shall be also claimed by one or more other Governments, on account of crimes committed in their respective dominions, the following rule shall be observed :—

If he is a subject of the High Contracting Party who claims him, the surrender shall be made to such party. If he is not so, the other High Contracting Party shall have the power of delivering him up to the reclaiming Government which, in the case in question, may appear to the former best entitled to the preference.

(*i*) The requisition for extradition may be made, on behalf of Her Britannic Majesty, by the Government of British India or by the Government of the Presidency of Bombay; and, on behalf of His Most Faithful Majesty, by the Government of Portuguese India :

Provided that, when the person claimed is accused of any of the above crimes which in British India is not exclusively triable by the High Court or the Court of Session, the requisition may also be made by the Governors of the Portuguese Settlements of Damaun and Diu, for any such crime committed in such Settlements respectively, and may be preferred directly to any District Magistrate or Political Agent within whose local jurisdiction such accused person may be found. Such District Magistrate or Political Agent shall, subject to the exceptions and conditions of this Convention, and unless he deem reference to higher authority to be absolutely necessary, comply with such requisition by delivering up the accused.

In like manner, any District Magistrate or Political Agent

Agent may make requisition to the Government of Portuguese India, or to the Governors of Damaun and Diu respectively, for the extradition of any person found in their jurisdiction who is accused of the commission, within the local jurisdiction of such District Magistrate or Political Agent, of any of the above crimes, the maximum punishment for which, by the Portuguese Penal Code, does not exceed imprisonment for seven years or an equivalent thereto. Subject to the exceptions and conditions of this Convention, such requisition shall be complied with by the delivering up of the accused, unless reference to higher authority shall be deemed absolutely necessary.

The authority receiving a requisition may hold, or cause to be held, such inquiry as he may deem sufficient for the purpose of ascertaining the existence of *primâ facie* proof of facts which constitute a crime for which extradition may be granted under clause (*b*) of this Convention, and, in the absence of such proof, may decline to deliver up the accused person.

(*j*) Every requisition shall ordinarily be accompanied by the summons or warrant of arrest, or an authenticated copy thereof, issued by the competent authority of the State applying for it, and by a statement setting forth the facts of the offence, and sufficient particulars to enable the accused to be identified.

In cases of urgency, satisfactory proof of the existence of a warrant of arrest issued by competent authority may be provisionally accepted in support of a requisition.

(*k*) If the person claimed has not already been arrested by the authorities of the State to whom the requisition is made, such authorities shall at once proceed to secure his appearance.

(*l*) Any person accused of any of the above crimes, and whether a subject of the party in whose dominions or jurisdiction he is found or otherwise, may be arrested by the authorities of such dominions—

on production of a warrant of arrest issued by the competent authority of the other party,

or

or on advice, from such competent authority, transmitted by post, telegraph, or other means, stating the existence of such warrant of arrest;

or on demand made by the Magistrate or Police-officer of the other party who has pursued the accused across the frontier;

or on receipt of advice of the fact of the crime, whether communicated by a private complainant or otherwise, and whether or not the individual offender may be known or specified by name.

(*m*) Every such Magistrate or Police-officer who has pursued the accused across the frontier shall be entitled to the protection and assistance of the Magistrates and Police-officers of the State to whose dominions or jurisdiction the accused has fled. They shall forthwith take up the pursuit, and, without waiting for the orders of higher authority, shall make all necessary searches, inquiries, pursuits, arrests and recoveries of stolen property, in accordance with the local law of criminal procedure.

The Magistrate or Police-officer who has pursued the accused across the frontier shall not enter houses or buildings, or make searches or arrests, except in presence or under the authority of a local Magistrate or Police-officer, but shall act in subordination to the local Magistrates or Police-officers, and shall assist them, if so required, in all necessary searches, inquiries, pursuits, arrests and recoveries of stolen property.

(*n*) Whenever any person is arrested in the dominions or jurisdiction of the one party for any of the above crimes committed in the dominions or jurisdiction of the other party, notice shall be given to the authorities of the other party, who may then, if the accused is a subject of the State where he is found, claim that he be tried there; or, if he is not such a subject, claim his extradition as provided in this Convention.

(*o*) All weapons and articles necessary as evidence shall

shall be seized in order to their production before the proper officer, and in case of extradition, in order that they may be delivered up with the accused when the extradition shall take place.

Such seizure and delivery shall extend to articles stolen or obtained by other offences, and the proceeds of such property, and to everything that may serve as evidence of the crime; and shall be made even when the extradition cannot be made, or the trial cannot be held, on account of the flight or death of the accused.

Nothing in this clause shall affect the rights of third parties to any such weapons and articles.

(*p*) The expenses occasioned by the arrest, imprisonment, maintenance and transport of criminals, and the conveyance of articles, shall, within the dominions and as far as the frontier, be defrayed by the party in whose dominions or jurisdiction such criminals or articles are found: the expenses by sea and beyond the frontier shall be defrayed by the other party.

(*q*) A British subject accused of having committed any of the above crimes in the Portuguese Indian dominions or jurisdiction, may be dealt with by the British Indian authorities as if the crime had been committed in British India; and a Portuguese subject accused of having committed any of the above crimes in the British Indian dominions or jurisdiction, may be dealt with by the Portuguese Indian authorities as if the crime had been committed in Portuguese India:

Provided that the accused is found in the dominions or jurisdiction of the party to whom he is subject, and has not been acquitted or punished in the dominions or jurisdiction in which he committed the crime.

Complaints of any such crimes shall be inquired into by the police and judicial authorities irrespective of

of the nationality of the complainant, in accordance with the local laws.

(*r*) In all such trials and enquiries, the evidence of witnesses whose attendance cannot be procured without an unreasonable amount of delay, expense or inconvenience, may be recorded by the judicial authorities of the State where the offence occurred, on receipt of an interrogatory Commission from the other State, and such depositions or certified copies thereof shall be received by the authorities of the other State as valid evidence: Provided that the authorities of the one State shall in all cases aid those of the other, as far as may be, in securing the personal attendance of witnesses, and reasonable time shall be allowed for the production of evidence before the final discharge or conviction of the accused.

(*s*) If within two months after receipt of notice of the arrest no requisition for extradition or complaint or application for a trial shall have been made, the accused may be set at liberty. He shall be set at liberty if, within one month of the day on which he was brought to the frontier or seaport, and there placed at the disposal of the party claiming, he shall not have been despatched to the dominions of such party:

Provided that, until the extradition takes place, the accused may be liberated on bail or recognizance where such procedure is allowed by the law of the dominions or jurisdiction where he is found; and that, after the extradition, the procedure shall be that provided by the law of the other dominions or jurisdiction.

(*t*) The High Contracting Parties engage to aid each other in the apprehension and surrender of deserters from their respective naval and military forces, and to apply all the provisions of this Convention to the offence of deserting.

It is agreed that this Convention shall have effect from the first day of February one thousand eight hundred and eighty.

Done

Done at Calcutta on the thirtieth day of January in the year of our Lord one thousand eight hundred and eighty.

LYTTON,

Viceroy and Governor General of British India

Done at Panjim on the twentieth day of January in the year of our Lord one thousand eight hundred and eighty

CAETANO ALDRE D'ALMEIDA ALBUQUERQUE,

Governor General of Portuguese India.

Govt Central Press —No 501 L D —10 2-90 —3,400.

THE BURMA BOUNDARIES ACT, 1880.

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ACT No. V OF 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 20th February, 1880*).

An Act to provide for the demarcation of land and for the establishment and maintenance of boundary-marks in British Burma.

WHEREAS it is expedient to provide for the demarcation of land and for the establishment and maintenance of boundary-marks in British Burma; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Burma Boundaries Act, 1880": Short title.

It extends to the territories for the time being administered by the Chief Commissioner of British Burma; Local extent

and it shall come into force at once. Commencement

2 The Local Government may, from time to time, appoint persons, by name or by virtue of their office, to be Demarcation-officers and Boundary-officers, and may suspend or remove any person so appointed. Power to appoint Demarcation and Boundary-officers

Every person so appointed shall, subject to the control of the Local Government and of any superior officer appointed by it in this behalf, exercise and perform, within such local limits as the Local Government may, from time to time, direct, the powers conferred, and the Functions of such officers.

the duties imposed, by this Act or the rules made hereunder on such officers respectively.

CHAPTER II.

DEMARCATION OF BOUNDARIES.

A.—Proceedings of Demarcation-officers.

Power to direct demarcation of boundaries.

3. The Local Government may, whenever it thinks fit, by a notification in the official Gazette, direct that the boundaries of any land shall be demarcated by a Demarcation-officer.

Power to enter on land to effect demarcation.

4. On the publication of any such notification, a Demarcation-officer appointed by the Local Government in this behalf may enter upon the land specified therein, and make all enquiries and do all other things necessary for demarcating the boundaries of the said land.

Publication of general notice.

5. The Demarcation-officer shall cause to be published a general notice addressed to all persons owning, occupying or otherwise interested in the said land and the land marching therewith, and to all persons employed on or connected with the management of such land, calling upon them to attend, either personally or by agent, before him, at such places and at such times as may be stated in such notice, for the purpose of pointing out the boundaries and of rendering such aid as may be necessary in setting up or repairing the boundary-marks, and of affording such other assistance and information as may be needed for the purposes of the demarcation.

The persons to whom such notice is addressed shall not be legally bound to attend.

Power to issue special notice to procure attendance.

6. The Demarcation-officer may also cause a special notice to be served on any of the persons mentioned in section five requiring such person to attend, personally or by agent, before him on or before a specified date, at such places and for such of the purposes aforesaid as may be stated in such notice; and every person upon whom such special notice may be served

served shall be legally bound to attend as required by the notice, and, so far as he may be able, to do any of the things mentioned therein.

Clearing of boundary-lines.

7. The Demarcation-officer may cause a special notice to be served on any owner or occupier of the said land requiring such owner or occupier to clear any boundary or other line which it may be necessary to clear for the purposes of the demarcation of such land, by cutting down and removing any trees, jungle, fences or standing crops, or to provide labour by furnishing flag-holders, or otherwise to assist in the demarcation of such land; and, if it is necessary to employ hired labour for these or other similar objects incidental to the demarcation, the Demarcation-officer may assess and recover from such owner or occupier the cost of such labour.

Compensation for injury done by clearance.

8. If any demand for compensation is made in respect of the clearance of any line in accordance with a requisition under section seven, the Demarcation-officer shall determine and record the value of any trees, jungle, fences or standing crops which may have been cut down or removed, and shall pay or tender to the owners thereof the amount of compensation which in his opinion should be allowed therefor.

Any dispute arising concerning the sufficiency of the amount so paid or tendered shall be determined by the Deputy Commissioner upon application made to him for that purpose by either of the disputing parties.

Power to summon person to give information or produce document.

9. The Demarcation-officer may issue a special notice calling upon any person who he has reason to believe can give any information respecting the boundaries of the land, or in whose possession or power any document relating to such boundaries is alleged to be, to attend before him and give such information or produce such document, on a date and at a place to be mentioned in the notice.

Every person on whom any such notice is served shall be legally bound to attend and to give such information or to produce such document as required by the notice.

10. The

Demarcation-officer to mark out boundaries,

10. The Demarcation-officer shall, after making such inquiry as he thinks fit, mark out the boundaries of the land, and may cause boundary-marks, of such materials, in such number, and in such manner, as he thinks fit, to be erected by the owners or occupiers of the land, or may erect such marks and charge the cost of such erection to such owners or occupiers, and shall forward a report of his proceedings to the Boundary-officer.

and submit report to Boundary-officer

When Demarcation-officers may alter demarcation

Provided that, at any time before forwarding his report to the Boundary-officer, the Demarcation-officer may, for any sufficient reason to be stated in such report, alter any boundary marked out by him.

B.—Proceedings of Boundary-officers.

General notice to persons affected

11. The Boundary-officer shall, on receipt of the report of the Demarcation-officer, cause a general notice to be published, informing all persons concerned that such report is open to inspection, and requiring any person who may have any objections to make thereto to submit a written statement of such objections within one month from the date of the publication of such notice.

Special notice to persons likely to object.

Whenever the Boundary-officer has reason to believe that any person interested is likely to object to any boundary as laid down in such report, he shall cause a special notice to be served on such person requiring him to submit, within the said period of one month, a written statement of his objection.

Statements of objections

No person shall be entitled as of right to submit any statement of objection after the expiration of the said period of one month; but it shall be in the discretion of the Boundary-officer to admit any such statement after the expiration of such period and before the order next hereinafter mentioned has been made.

Order of Boundary-officer

12. When the said period of one month has expired and the objections (if any) made within it or subsequently admitted by the Boundary-officer have been inquired into by him, and any further inquiry which he may deem necessary has been made by him, the

the Boundary-officer shall pass such order as he thinks fit, confirming or modifying the boundaries as determined by the Demarcation-officer.

If any objection seems to him not to be well-founded, the Boundary-officer may direct that all expenses of the inquiry which have arisen from such objection shall be recovered from the person who made the same.

Objections subsequently made how dealt with.

13. When any person, within sixty days from the date of the order passed under section twelve, makes any objection to the correctness of the demarcation-proceedings, the Boundary-officer may, in his discretion, either refuse to inquire into such objection, or may require the person making the same to deposit, within a reasonable time, the estimated costs of any further inquiry which it may be necessary to make in respect thereof.

Boundary-officer to make further inquiry.

14. If the costs of such further inquiry are deposited, the Boundary-officer shall, after making such inquiry, pass an order rejecting such objection or admitting the same and amending the order passed under section twelve.

If, on such inquiry, the objection seems to the Boundary-officer not to be well-founded, he may pass such order as he thinks fit in respect of the recovery, from the person making the objection, of any sum expended on the inquiry in excess of the sum deposited, and of any necessary expenses incurred by any other person on account of such inquiry.

No person making an objection under section thirteen shall, unless the Boundary-officer specially so directs, recover any portion of the amount deposited by him under section thirteen.

Power to enforce attendance of witnesses, &c.

15. For the purposes of any inquiry under this Act, the Boundary-officer shall, in addition to the powers conferred specially by this Act, have all the powers of a Demarcation-officer and also power to summon and enforce the attendance of witnesses and compel the production of documents, so far as may be, by the same means and in the same manner as is provided in the case of a civil Court by the Code of Civil Procedure.

16. The

Power to refer dispute to arbitration

16 The Boundary-officer, whenever he thinks fit, may, with the consent of the parties concerned, refer to arbitration any dispute as to a boundary.

The procedure laid down in chapter XXXVII of the Code of Civil Procedure shall apply (so far as may be) to such references.

Effect of orders of Boundary-officer

17. The order passed by the Boundary-officer under section twelve, or, when such order is amended under section fourteen, such amended order shall, unless and until it be reversed or modified in manner hereinafter provided, be conclusive.

C.—Appeals from Orders of Boundary-officers.

Orders appealable to Commissioner

18. An appeal shall lie to the Commissioner of the Division from every order passed by a Boundary-officer under section twelve, section thirteen or section fourteen.

Decision when final

19. If the Commissioner confirms the order of the Boundary-officer on a matter of fact, such decision shall be final and conclusive.

Second appeal when allowed

In all other cases in which the Commissioner confirms the order of the Boundary-officer, and in all cases in which the Commissioner reverses or modifies the order of the Boundary-officer, an appeal shall lie to the Judicial Commissioner, or, when the land comprised in the order is situated within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon, to such Recorder.

Period of limitation

20. The period of limitation for an appeal under section eighteen or section nineteen shall run from the date of the order or decision appealed against, and shall be as follows, that is to say: —

(*a*) in the case of an appeal under section eighteen—sixty days;

(*b*) in the case of an appeal under section nineteen—ninety days.

In computing such periods of sixty and ninety days, and in all respects not herein specified, the limitation of such appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

21. The

21. The Commissioner, the Judicial Commissioner and the Recorder of Rangoon shall in hearing and determining appeals presented under this Act have, as nearly as may be, the same powers as they have in the case of appeals from decrees and orders in civil suits. Powers of Commissioner &c.

D.—Boundary-marks.

22. Whenever an order determining a boundary has become final, the Boundary-officer shall, unless permanent boundary-marks of a suitable description have already been erected along such boundary, cause to be erected permanent boundary-marks, of such materials, in such number, and in such manner, as he may consider sufficient to distinguish such boundary. When permanent boundary-marks are to be erected.

An order determining a boundary becomes final for the purposes of this section when it is not open to appeal.

23. All expenses incurred by the Boundary-officer in erecting such boundary-marks for any land shall be apportioned amongst the owners or occupiers of such land, in such proportions as the Boundary-officer may think fit. Apportionment of expense of erection of marks.

24. When the expenses have been apportioned among such owners or occupiers, the Boundary-officer shall cause a notice to be served on each of them, specifying the amount payable by him in respect of such expenses, and requiring him to pay such amount to the Boundary-officer within one month from the service of such notice. Notice to owners to pay share of expense.

25. The Boundary-officer may further cause a notice to be served on any owner or occupier, placing under his charge any boundary-marks erected on the boundary of his land, whether by order of such officer or otherwise. Power to place marks under charge of owners and occupiers.

Every owner or occupier shall preserve such boundary-marks as may be placed under his charge under this section, and shall give immediate notice to the nearest Magistrate or the officer in charge of the nearest Police-station if any such marks are injured, destroyed or removed, or require repairs. Duty to preserve boundary-marks. Duty to give notice of any injury occurring to them.

26. Whenever

Power to re-erect and repair boundary-marks.

26. Whenever a Magistrate of the first or second class becomes aware that any mark erected under this Act within the local limits of his jurisdiction has been injured, destroyed or removed, or requires repairs, such Magistrate may cause such mark to be re-erected, restored or repaired, and may recover any expenses incurred in respect of such re-erection, restoration or repair from the owner or occupier who is bound under section twenty-five to preserve such mark.

Duties of village-officers.

27. It shall be the duty of every village-headman and thoogyee—

(*a*) to prevent the destruction, injury or alteration of any boundary-mark within the local limits of his jurisdiction;

(*b*) whenever he becomes aware that any such mark has been destroyed, injured or altered, to report immediately to the officer in charge of the nearest Police-station or to the nearest Magistrate such destruction, injury or alteration.

CHAPTER III.

MISCELLANEOUS.

Survey-officer.

28. When any officer is appointed by the Government to make a survey of any land, the Chief Commissioner may invest such officer, for the purposes of such survey, with all or any of the powers conferred on Demarcation-officers by sections four to nine (both inclusive), and also with power to cause any boundary or other marks to be erected by the owners or occupiers of any land, or to erect such marks and to charge the cost of such erection to such owners or occupiers.

Power to perform order under Act at expense of person disobeying it.

29. If any owner or occupier of any land, or any other person, being ordered in accordance with the provisions herein contained to perform any act, fails to perform such act within a reasonable time, the officer who gave the order may, after giving notice to such owner, occupier or other person of his intention so to do, cause the act to be performed; and the expenses

expenses incurred in such performance shall be payable by such owner, occupier or other person.

Penalty for refusing or neglecting to comply with orders or notice

30. Whoever, being legally bound to comply with any lawful order under this Act, or with the requisition contained in any special notice served upon him under this Act, refuses or neglects to comply therewith, shall be punished with fine which may extend to fifty rupees.

Recovery of amounts due under Act.

31. Every amount due under the provisions of this Act may be recovered as if the same were an arrear of land-revenue.

Power to make subsidiary rules

32. The Chief Commissioner may, from time to time, make rules consistent with this Act—

(*a*) for the collection and record of any information in respect of any land;

(*b*) prescribing and limiting the powers and duties of officers conducting proceedings under this Act;

(*c*) regulating the delegation by such officers to subordinate officers of the powers and duties conferred and imposed on them respectively by this Act or the rules made hereunder;

(*d*) for the proper performance of all things to be done, and for the regulation of all proceedings to be taken, under this Act;

(*e*) for the publication, issue and service of all notices, whether general or special, to be published, issued or served under this Act; and

(*f*) for carrying out generally the purposes of this Act.

Mode of publication

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Government Central Press.—No. 668 L. D.—1-8-80—3,400.

BENGAL ... LIBRARY

ACT No. VI OF 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 2nd March, 1880)

An Act to amend the law relating to the licensing of trades and dealings.

Preamble.

WHEREAS it is expedient to amend the law at present in force for the licensing of trades, dealings and industries in certain parts of British India, It is hereby enacted as follows :—

Short title

1. This Act may be called "The Indian License Acts Amendment Act, 1880"

The Northern India License Act, 1878.

Repeal of portions of Northern India License Act, 1878

2 The following portions of the Northern India License Act, 1878, are hereby repealed, that is to say :—

the portion of section one from and including the words "but nothing herein contained" to the end ;

section two ;

and the portion of the schedule from and including the words and figures "class III" to the end.

Addition to section 3 of same Act

3 In the same Act, to section three, the following shall be added, that is to say :—

'Trade,' 'dealing' and 'calling.'

"In this Act the word 'trade,' 'dealing' or 'calling' shall not be deemed to include the following, that is to say :—

"(*a*) agriculture ;

"(*b*) the performance by a cultivator or receiver of rent in kind of any process ordinarily employed by

[*Price two annas.*]

a cultivator or receiver of rent in kind to render the produce raised or received by him fit to be taken to market;

"(*c*) the sale by a cultivator or receiver of rent in kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce."

Substitution of new section for section 4 of same Act.

4. In the same Act, to section four, the following shall be added, that is to say:—

"Provided that, if such person carries on such trade or dealing in more than one such district, he shall take out such license in the district in which his principal place of business in the said territories is situate.

"When any question arises as to what shall, for the purposes of this Act, be deemed to be the principal place of any business, the Governor General in Council, or such authority as the Governor General in Council may from time to time appoint in this behalf, shall decide such question, and his or its decision thereof shall be final."

Amendment of sections 6, 7 and 8 of same Act.

5. In sections six, seven and eight of the same Act, for the words "such district," wherever they occur, the words "the said territories" shall be substituted.

Amendment of section 7 of same Act.

6. In section seven of the same Act, for the words "first day of January," the words "thirty-first day of March" shall be substituted.

Amendment of sections 9 and 10 of same Act.

7. In sections nine and ten of the same Act, for the figures "1878," the figures "1880" shall be substituted.

In section ten of the same Act, for the word "thirty," the word "sixty," and for the word "February," the word "June" shall be substituted.

Madras License Act, 1878.

Repeal of portions of Madras License Act, 1878

8. In section five of the Madras License Act, 1878, the words "and whose annual nett earnings or profits exceed two hundred rupees," and the portion of the schedule of the same Act from and including the

the words and figures "class XII," to the end, are hereby repealed.

Substitution of new section for section 3 of same Act.

9. In the same Act, for section three, the following section shall be substituted :—

'Trade,' 'dealing' or 'industry' defined

"In this Act the word 'trade,' 'dealing' or 'industry' shall not be deemed to include the following, that is to say :—

"(*a*) agriculture;

"(*b*) the performance by a cultivator or receiver of rent in kind of any process ordinarily employed by a cultivator or receiver of rent in kind to render the produce raised or received by him fit to be taken to market;

"(*c*) the sale by a cultivator or receiver of rent in kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce."

Amendment of section 8 of same Act

10 In section eight of the same Act, for the words "first day of January," the words "thirty-first day of March" shall be substituted.

In the same Act, "1880" substituted for "1878"

11. In sections ten and eleven of the same Act, for the figures "1878," the figures "1880" shall be substituted.

Amendment of section 11 of same Act

12. In section eleven of the same Act, for the word "March" in both places in which it occurs, the word "June" shall be substituted.

The Bombay License Act, 1878.

Amendment of sections 1 and 2 of Bombay License Act, 1878.

13. In section one of the Bombay License Act, 1878, the words "but nothing herein contained applies to persons earning their livelihood solely by agriculture" are hereby repealed; and to section two of the same Act, the following words shall be added :—

'Trade,' 'dealing,' 'industry,' 'calling,' 'occupation' defined

"and the word 'trade,' 'dealing,' 'industry,' 'calling' or 'occupation' shall not be deemed to include the following, that is to say :—

"(*a*) agriculture;

"(*b*) the

"(*b*) the performance by a cultivator or receiver of rent in kind of any process ordinarily employed by a cultivator or receiver of rent in kind to render the produce raised or received by him fit to be taken to market;

"(*c*) the sale by a cultivator or receiver of rent in kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce."

In the same Act, "1880" substituted for "1878."

14 In sections nine and ten of the same Act, for the figures "1878," the figures "1880" shall be substituted.

Amendment of sections 7 and 11 of same Act

15. In section seven of the same Act, for the words "first day of January," the words "thirty-first day of March" shall be substituted;

and in section ten of the same Act, for the word "thirty," where it first occurs, the word "sixty" shall be substituted; and for the words "within thirty days next after the first of January," the words "before the first day of June" shall be substituted.

Amendment of schedule A of same Act.

16. In schedule A annexed to the same Act, for the words and figures "Companies registered under the Indian Companies Act, 1866," the words "Joint Stock Companies" shall be substituted.

Amendment of schedule B of same Act

17. In schedule B annexed to the same Act, the words and figures "class XII, Rs. 7, class XIII, Rs. 5, class XIV, Rs. 3, class XV, Rs. 2" are hereby repealed

General.

Recovery of money due when Act passes

18. Notwithstanding anything hereinbefore contained, any money due at the time of the passing of this Act, under any of the Acts hereby amended, may be recovered as if this Act had not been passed.

Trade &c., carried on in various parts of British India.

19. When any person is engaged in any trades, dealings, industries or callings in two or more of the local areas to which the several Acts hereby amended and the Bengal License Act for the time being in force

force respectively extend, and is thereby liable to pay fees under two or more of such Acts, he shall, if the Governor General in Council so directs, be chargeable with a fee only under such one of those Acts as the Governor General in Council may direct, and the amount of such fee shall be calculated as if he was engaged in all such trades, dealings, industries and callings within the local area to which such Act applies.

A direction under this section may be given by general rule or special order.

Government Central Press:—No 905 L. D.—11 3-90.—3,450.

THE INDIAN MERCHANT SHIPPING ACT, 1880.

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[*Price Eight annas and six pies.*]

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ACT No. VII OF 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 11th March, 1880*)

An Act to amend the law relating to Merchant Shipping, and for other purposes.

Preamble.

WHEREAS it is expedient to prevent the departure of certain ships from British India;

and whereas it is also expedient to provide for the relief of distressed seamen and apprentices at ports in British India, and for the recovery of wages due to, and expenses incurred in respect of, such seamen and apprentices in cases to which section 211 of the Merchant Shipping Act, 1854, and section 16 of the Merchant Shipping Act, 1855, do not apply of their own force;

and whereas it is also expedient to provide in other respects hereinafter appearing for the regulation and control of merchant shipping; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title

1. This Act may be called "The Indian Merchant Shipping Act, 1880."

Commencement.

and it shall come into force on the first day of June, 1880.

Interpretation-clause.

2 In this Act, unless there is something repugnant in the subject or context,—

"ship"

"ship" includes every description of vessel used in navigation, not propelled by oars:

"master"

"master" "master" means any person (except a Pilot or Harbour-master) having for the time being the charge or control of a ship:

"port" "port" in any provision of this Act includes also any part of a river or channel leading to a port which for the purposes of such provision the Local Government may, from time to time, by notification in the official Gazette, declare to be included in such port.

CHAPTER II.

UNSEAWORTHY AND UNSAFE SHIPS

Saving clause

3 Nothing in this chapter contained shall apply—

(*a*) to any ship belonging to, or hired by, Her Majesty or the Secretary of State for India in Council;

(*b*) to any ship of less than one hundred and fifty tons register employed solely in fishing or in plying coastwise between ports situate in India and Ceylon;

(*c*) to any pleasure yacht.

Interpretation clause British Indian ship

4 In this chapter, "British Indian ship" means a ship registered under Act No. XIX of 1838, Act No. X of 1841, or Act No. XI of 1850, or under any other law passed by the Governor General in Council and for the time being in force for the registration of ships in India; and

"British ship" includes a British Indian ship

"manner prescribed" "manner prescribed" means such manner as the Local Government, with the previous sanction of the Governor General in Council, may, from time to time, by rules published in the official Gazette, prescribe:

"Unseaworthy" A ship is "unseaworthy" within the meaning of this chapter when the materials of which she is made, her construction, the qualifications of the master, the number and description of the crew, the weight, description and stowage of cargo, the tackle, sails, rigging, stores, ballast and other equipment generally are not such as to render her in every respect fit for the proposed voyage or service.

A

A ship is "unsafe" within the meaning of this chapter when by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, she is unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended "Unsafe."

Sending or taking Unseaworthy Ship to Sea

5 Every person who sends or attempts to send a British Indian ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, shall, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Every person sending unseaworthy ship to sea liable to penalty

Every master of a British Indian ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Master taking unseaworthy ship to sea liable to penalty

For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

No prosecution under this section shall be instituted except by, or with the consent of, the Local Government. Prosecution to be by, or with consent of, Local Government.

Implied Condition of Seaworthiness in Contract of Service

6 In every contract of service, express or implied, between the owner of a British ship and the master Obligation of owner to crew with

respect to seaworthiness

or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to secure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state for the voyage during the same:

Proviso

Provided that nothing in this section shall subject such owner to any liability by reason of such ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending her to sea is reasonable and justifiable.

Detention of Unsafe Ships by the Local Government.

Provisional detention by Local Government

7. The Local Government, if it has reason to believe, on complaint or otherwise, that a British ship in any port to which it may from time to time specially extend this section, is unsafe, may provisionally order the detention of such ship for the purpose of being surveyed.

Service of grounds on master

A written statement of the grounds of such detention shall be forthwith served on the master of such ship.

Power to appoint surveyor.

8. When the Local Government provisionally orders the detention of a ship, it shall forthwith appoint some competent person to survey such ship and report thereon, and, on receiving his report, may either order the ship to be released or, if in its opinion the ship is unsafe, may order her to be finally detained.

Action on receipt of his report.

Order of final detention.

An order of final detention under this section may be either absolute or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the Local Government thinks necessary for the protection of human life, and the Local Government may,

may, from time to time, vary or add to any such order:

Service of report on master and appeal to Court of Survey.

Provided that, before an order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against such report, in the manner prescribed, to the Court of Survey (hereinafter mentioned) for the port where the ship is detained.

Option to owner or master of appointing assessor to accompany surveyor

9. Where a ship has been provisionally detained and a person has been appointed under section eight to survey such ship, the owner or master of the ship, at any time before such person makes such survey, may require that he shall take with him as assessor such person as such owner or master may select, being a person named in the list of assessors prepared under section fifteen, or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience, and

Procedure where surveyor and assessor agree.

in such case, if the surveyor and assessor agree that the ship should be detained or released, the Local Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no appeal,

where they differ

but if the surveyor and assessor differ in their report, the Local Government may act as if the requisition had not been made, and the owner or master shall have such appeal touching the report of the surveyor as is hereinbefore provided.

Power to refer to Court of Survey

10 Notwithstanding anything contained in section eight the Local Government may at any time, when a ship has been provisionally detained, instead of following the procedure hereinbefore provided, refer the matter to the Court of Survey for the port where the ship is detained.

Detaining-officers.

Detaining-officers

11. For the better execution of this chapter, the Local Government may, from time to time, appoint

a sufficient number of fit persons as its officers, and may suspend or remove any of them.

Their powers generally.

Every officer so appointed (hereinafter referred to as a detaining-officer) shall have, for the purpose of his duties under this chapter, the following powers, (that is to say):—

(*a*) he may go on board any British ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage;

(*b*) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any enquiries he thinks fit to make,

(*c*) he may require and enforce the production of all books, papers or documents which he considers important, and

(*d*) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Their power to order provisional detention and survey

12. Every detaining-officer shall, in addition to the powers hereinbefore conferred, have the same power as the Local Government has under sections seven and eight, respectively, of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person to survey her; and if he thinks that a ship so detained by him is not unsafe, may order her to be released.

Detaining-officer to report to Local Government

Every such officer shall forthwith report to the Local Government any order made by him for the detention or release of a ship.

Of

Of the Court of Survey and of Appeals and References thereto.

Constitution of Court of Survey.

13 A Court of Survey for a port shall consist of a Judge sitting with two assessors.

The Judge

14 The Judge shall be a District Judge, Judge of a Court of Small Causes, Presidency Magistrate, Magistrate of the first class or other fit person appointed in this behalf by the Local Government either generally or for any specified case.

The assessors

15 The assessors shall be persons of nautical, engineering or other special skill and experience.

One of them shall be appointed by the Local Government either generally or in each case, and the other shall be summoned by the Judge, in the manner prescribed, out of a list of persons from time to time prepared for the purpose and published by the Local Government in the official Gazette, or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

Judge to summon assessors

16 The Judge shall, on receiving notice of an appeal or a reference from the Local Government, immediately summon the assessors, in the manner prescribed, to meet forthwith.

Case to be heard in open Court.

17 Every such appeal and reference shall be heard in open Court.

Powers of Judge and assessors.

18 The Judge and each assessor shall, for the purposes of this chapter, have the same powers as are by section eleven conferred on a detaining-officer.

Judge may appoint surveyor.

19 The Judge may appoint any competent person to survey the ship and report thereon to the Court.

Owner or master may attend at survey.

20 The owner and master of the ship and any person appointed by the owner or master, and also any person appointed by the Local Government, may attend at any inspection or survey made in exercise or pursuance of the powers conferred by section eighteen or section nineteen.

21 The

Power of Judge to detain or release ship.

21 The Judge shall have the same power as the Local Government has to order the ship to be released or finally detained; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

Report to Local Government by Court

22. The Judge shall report the proceedings of the Court in each case to the Local Government in the manner prescribed, and each assessor shall either sign such report or report to the Local Government the reasons for his dissent.

Power of Local Government to make rules with respect to Court of Survey.

23 The Local Government may, with the previous sanction of the Governor General in Council, from time to time make rules to carry into effect the provisions of this chapter with respect to a Court of Survey, and in particular with respect to—

(*a*) the procedure before the Court;

(*b*) the requiring, on an appeal, of security for costs and damages;

(*c*) the amount and application of fees; and

(*d*) the ascertainment, in case of dispute, of the proper amount of costs under this chapter.

Such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Scientific Referees.

Power to appoint referee to hear appeal.

24. If the Local Government is of opinion that an appeal under this chapter involves a question of construction or design, or of scientific difficulty or important principle, it may refer the matter to such one or more out of a list of scientific referees, to be from time to time prepared by the Local Government, as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Port-officer and the appellant, or, in default of any such agreement, by the Local Government; and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

Option to appellant to.

25 The Local Government, if the appellant in any such appeal so requires and gives security to its satisfaction

satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid. Require referee to be appointed

26. The referee or referees to whom an appeal is referred under section twenty-four or section twenty-five shall have the same powers as a Judge of the Court of Survey. Referee to have powers of Court of Survey.

Costs of Detention and Damages incidental thereto.

27. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship, the Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey. Liability of Government for costs and damages when ship wrongly detained.

28. If a ship is finally detained under this chapter, or if it appears that a ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to Government its costs of and incidental to the detention and survey of the ship; and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable. Liability of shipowner for costs when ship rightly detained

29. For the purposes of this chapter the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the Local Government, shall be deemed to be part of the costs of the detention and survey of the ship. What included in costs of detention and survey.

30. When a complaint is made to the Local Government or a detaining-officer that a British ship is unsafe, it shall be in the discretion of such Government or officer (as the case may be) to require the complainant to give security to the satisfaction of such Government or officer for the costs and compensation which such complainant may become liable to pay as hereinafter mentioned: Power to require from complainant security for costs, &c.

Provided that, where the complaint is made by one-fourth, being not less than three, of the seamen belonging Proviso as to complaint by

one fourth of crew

belonging to the ship, and is not in the opinion of such Government or officer frivolous or vexatious, such security shall not be required; and such Government or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this chapter.

Costs, &c., payable by Government recoverable from complainant

31 Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this chapter to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs, or is liable to pay, in respect of the detention and survey of the ship

Grain-cargoes

Stowage of cargo of grain, &c

32 No cargo of which more than one-third consists of any kind of grain, corn, rice, paddy, pulse, seeds, nuts or nut-kernels (hereinafter referred to as grain-cargo) shall be carried on board any British Indian ship unless the same be contained in bags, sacks or barrels, or secured from shifting by boards or bulkheads or otherwise

Penalty for improper stowage of such cargo.

If the owner or master of any ship, or any agent of such owner who is charged with the loading of such ship or the sending her to sea, knowingly allows any grain-cargo or part of a grain-cargo to be shipped therein for carriage contrary to the provisions of this section, he shall be punished with fine which may extend to three thousand rupees.

Deck and Load-lines.

Marking of deck lines.

33 Every British Indian ship shall be permanently and conspicuously marked with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships or as near thereto as is practicable, and indicating the position of each deck which is above water.

The upper edge of each of these lines shall be level with the upper side of the deck-plank next the water-way

way at the place of marking. The lines shall be white or yellow on a dark ground, or black on a light ground.

Marking of load-lines.

34. The master of every British ship not being a coasting-vessel within the meaning of the Sea Customs Act, 1878, shall, before his ship is entered outwards from any port in British India upon any voyage, or if that is not practicable, as soon after as may be, mark outside upon each of her sides amidship, or as near thereto as is praticable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

The centre of such disc shall indicate the maximum load-line in salt-water to which it is intended to load such ship for that voyage.

Statement in application to Customs-officer for entry outwards.

35. The person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs-collector, a statement in writing of the distances in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's deck which is above such centre: and if default is made in delivering this statement, the Customs-collector may refuse to enter the ship outwards.

Copy of statement to be entered in agreement with the crew and in the log-book.

36. A copy of this statement shall be entered in the agreement with the crew before it is signed by any member of the crew; and no shipping-master shall proceed with the engagement of the crew till this entry is made.

The master shall enter a copy of this statement in the official log-book (if any).

Ship to be kept marked.

37. When a ship has been marked as by section thirty-four required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

Marking of load-lines in case of coasting-vessels.

38. The master of every British ship which is a coasting-vessel within the meaning of the Sea Customs Act, 1878, shall, before proceeding to sea from any port, mark outside upon each of her sides amidship,

ship, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

The centre of this disc shall indicate the maximum load-line in salt-water to which it is intended to load the ship, until notice is given of an alteration.

Annual statement as to position of load-line

39 He shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Collector, or other principal officer of Customs of such port as the Local Government may, from time to time, appoint on this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the Collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

If default is made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be punished with fine which may extend to one thousand rupees

Ship to be kept marked

40 When a ship has been marked as required by section thirty-eight, she shall be kept so marked until notice is given of an alteration.

Penalty for neglecting to mark, or submerging load-line

41. Any master of a ship who neglects to cause his ship to be marked as by this chapter required, or to keep her so marked, or who allows the ship to be so loaded that when in perfectly smooth salt-water the centre of the disc is submerged,

and any person who conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any

any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy,

shall be punished for each such offence with fine which may extend to one thousand rupees.

Penalty on master for having mis loading marks

42 If any of the marks required by this chapter is in any respects inaccurate so as to be likely to mislead, the master of the ship shall be punished with fine which may extend to one thousand rupees.

Saving of ships marked in the United Kingdom.

43 The provisions of this chapter as to load-lines shall not apply to ships coming from ports in the United Kingdom and marked with such lines in accordance with the provisions of the laws for the time being there in force.

Supplemental Provisions.

Release of ship at any time by Local Government.

44 The Local Government may at any time, if satisfied that a ship detained under this chapter is not unsafe, order her to be released either upon or without any conditions.

Who may enforce detention of ship.

45. When under this chapter a ship is authorized or ordered to be detained, any commissioned officer on full pay in the naval or military service of Her Majesty, any commander or first officer of any of Her Majesty's Indian Government ships, or any Port-officer, Harbour-master, Conservator of a port or officer of customs may detain the ship.

Penalty for proceeding to sea after detention.

46. If any ship after such detention, or after service on the master of any notice of or order for such detention, proceeds to sea before she is released by competent authority, the master of the ship shall be punished with fine which may extend to one thousand rupees.

Penalty for carrying to sea officer in execution of his duty.

47. When a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any person authorized under this chapter to detain or survey such ship, the owner and master of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea, and shall

also

also each be punished with fine which may extend to one thousand rupees.

When any owner or master is convicted of an offence under this section, the convicting Magistrate may enquire into and determine the amount payable on account of expenses by such owner or master under this section, and may direct that the same shall be recovered from him in manner provided for the recovery of fines.

Detained ship not to be released because British registry closed.

48. When a ship has been detained under this chapter, she shall not be released by reason of her British or British Indian register being subsequently closed.

Powers of person authorized to survey ship.

49. For the purposes of the survey of a ship under this chapter, any person authorized to make the same may go on board the ship and inspect the same, and every part thereof, and the machinery, equipments and cargo, and may require the unloading or removal of any cargo, ballast or tackle.

Certain persons to be deemed public servants.

50. Every Judge, assessor, officer or surveyor under this chapter shall be deemed to be a public servant within the meaning of the Indian Penal Code.

Service of order, where there is no master or resident-owner, &c.

51. Where any order, notice, statement or document is required for the purpose of any provision of this chapter, to be served on the master of a ship, the same shall be served, where there is no master, on the owner of the ship, if he resides in the port where the ship is detained, or, if there is no owner residing there, on some agent of the owner residing there; or where such owner or agent is unknown or cannot be found, a copy of such order, notice, statement or document shall be affixed to the mast of the ship, and shall thereupon be deemed to be duly served.

Order, &c., how to be served.

52. Any such order, notice, statement or document may be served by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode, or, in the case of a master, by leaving it for him on board the ship with the person being or appearing to be in command or charge of the ship.

53. The

53. The Local Government may, from time to time, by notification in the official Gazette, delegate either absolutely or subject to such conditions or restrictions as it thinks fit, to any body of Commissioners or trustees appointed for managing the affairs of a port all or any of the powers, and require the said body to discharge all or any of the functions, of a Local Government under the foregoing sections of this Act, except the powers conferred by section fourteen, the power of preparing a list of assessors under section fifteen and the power of making rules, and may cancel any such notification. Delegation of powers to Port Commissioners, &c.

While any such notification remains in force, all costs and damages which would otherwise be recoverable under this Act by or from the Government shall be recoverable in like manner by or from such body; and such body shall, notwithstanding anything to the contrary contained in any enactment now in force, credit or pay, as the case may be, the amount of any costs or damages so recovered to or from the funds held by them in trust as such body.

CHAPTER III.

Distressed Seamen.

54. This chapter shall be read with, and taken as part of, Act No. I of 1859 *(for the amendment of the law relating to Merchant Seamen)*. Chapter to be taken as part of Act I of 1859.

But nothing in this chapter contained applies to seamen or apprentices to whom the provisions of section 211 of the Merchant Shipping Act, 1854, or of section 16 of the Merchant Shipping Act Amendment Act, 1855, apply. Saving of provisions of Merchant Shipping Acts, 1854 and 1855

In this chapter "Local authority" means such person as the Local Government may from time to time, subject to the control of the Governor General in Council, appoint by name or in virtue of his office to exercise the powers conferred, and to perform the duties imposed, on the local authority under this chapter. "Local authority"

Every

Power to suspend or dismiss.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

Relief of distressed seamen at Indian ports

55. The local authority may, subject to the rules hereinafter mentioned, provide for the subsistence—

(*a*) of all seamen and apprentices, being Native Indian subjects of Her Majesty, who have been shipwrecked, discharged or left behind at any place in British India, whether from any British ship employed in the merchant-service, or from any of Her Majesty's ships, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign Power, or to the subject of any foreign State, and who are in distress in any such place; and

(*b*) of all seamen and apprentices not being Native Indian subjects who have been shipwrecked, discharged or left behind at any place in British India from any British ship registered in British India and who are in distress in any such place,

until such time as such authority is able to provide them with a passage as hereinafter provided.

Distressed seamen to be sent home on board British ship wanting seamen to make up its crew

56 Subject as aforesaid, the local authority may cause such seamen or apprentices to be put on board some ship belonging to any subject of Her Majesty which is in want of men to make up its complement, and is bound—

(*a*) in the case of seamen or apprentices who are Native Indian subjects of Her Majesty, to their home or to a port in British India near their home;

(*b*) in the case of other British seamen or apprentices, to any port in the United Kingdom or the British possession to which they belong (as the case requires); and

(*c*) in the case of seamen or apprentices not being subjects of Her Majesty, to such place as the local authority, subject to the control of the Governor General in Council, may in each case determine.

In default of such ship, on

57. In default of any such ship, the local authority

ity may, subject as aforesaid, provide such seamen or apprentices with a passage in any ship (whether British or foreign) bound as aforesaid. board of any ship.

58 The local authority shall indorse on the agreement of any British ship on board of which any seaman or apprentice is sent under section fifty-six or section fifty-seven, the name of every person so sent on board thereof, with such particulars concerning the case as the Governor General in Council may from time to time by rule prescribe. Name and other particulars with regard to seamen to be indorsed on agreement of British ship.

59. The master of every British ship bound as aforesaid shall receive and afford a passage and subsistence to all seamen and apprentices whom he is required to take on board his ship under the provisions of section fifty-six or section fifty-seven, not exceeding one for every fifty tons burden, and shall, during the passage, provide every such seaman or apprentice with a proper berth or sleeping-place effectually protected against sea and weather. Master of British ship compelled to convey and give subsistence to such seamen.

60 If the master of any such ship fails or refuses to receive on board his ship, or to give a passage or subsistence to, or to provide for, any such seaman or apprentice contrary to the provisions of section fifty-nine, he shall, for each seaman and apprentice with respect to whom he so fails or refuses, be punished with fine which may extend to one thousand rupees, or, when he is tried at any place beyond the limits of British India, to the equivalent of one thousand rupees in the currency of such place. Penalty for refusing so to do

61. When any master of a British ship has conveyed a seaman or apprentice in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this chapter, such master shall be entitled to be paid by the Secretary of State for India in Council in respect of the subsistence and passage of such seaman or apprentice such sum per diem as the Governor General in Council from time to time appoints: Conditions under which master may claim payment

Provided that no payment shall be made under this section

section except on the production of the following documents (that is to say) :—

(*a*) a certificate signed by the local authority by whose direction such seaman or apprentice was received on board, specifying the name of such seaman or apprentice, and the time when he was received on board; and

(*b*) a declaration in writing by such master made and verified in manner hereinafter provided, and stating—

(1) the number of days during which such seaman or apprentice received subsistence and was provided for as aforesaid on board his ship;

(2) the number of men and boys forming the complement of his crew;

(3) the number of seamen and apprentices employed on board his ship during the time such seaman or apprentice was on board; and

(4) every variation (if any) of such number.

The declaration required by this section shall, in the case of a ship conveying Native Indian subjects of Her Majesty to a port in British India, be made before a shipping-master or such other officer as the Local Government may appoint. In other cases such declaration shall be made and verified in the same manner as declarations made under section 212 of the Merchant Shipping Act, 1854.

Wages and expenses incurred in respect of distressed seamen to be charged on ship to which they belong in certain cases.

62. (*a*). If any seaman or apprentice, being a Native Indian subject of Her Majesty and belonging to any British ship, is discharged or left behind at any place in British India without full compliance on the part of the master with all the provisions in that behalf of the law for the time being in force, and becomes distressed and is relieved under the provisions of this chapter; or

(*b*) if any such seaman or apprentice, after having been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign power or to the subject of any foreign power, becomes distressed and is relieved as aforesaid; or

(*c*) if

(*c*) if any seaman or apprentice belonging to any British ship registered in British India, and not being a Native Indian subject of Her Majesty, is discharged or left behind at any place in British India without full compliance as aforesaid, and becomes distressed and is relieved as aforesaid,

the wages (if any) due to such seaman or apprentice, and all expenses incurred for his subsistence, necessary clothing, conveyance home, and, in case he should die before reaching home, for his burial, shall be a charge upon the ship, whether British or foreign, to which he so belonged as aforesaid.

Mode of recovering such wages and expenses.

63. All such wages and expenses shall be recoverable with costs either from the master of such ship or from the person who is owner thereof for the time being, or in the case of an engagement for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made, in the same manner as other debts due to the Secretary of State for India in Council, or in the same manner and by the same form and process in which wages due to the seaman or apprentice would be recoverable by him.

Local Government may authorize persons to recover same.

64. The Local Government may from time to time, by notification in the official Gazette, authorize, either generally or specially, such persons as it thinks fit to sue for any such wages and expenses and recover the same.

Such persons to be deemed persons filling a public office.

And every person so authorized shall be entitled to sue and recover accordingly, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause 7.

Board of Trade may recover such amount from master or owner in certain cases.

65. When any such wages and expenses are due to or in respect of a seaman or apprentice mentioned in section sixty-two, clause (*c*), they may, instead of being recovered by a person authorized under section sixty-four, be recovered by the Board of Trade in manner provided by the Merchant Shipping Act, 1854, section 213, and when so recovered shall be paid by the

the said Board to the Secretary of State for India in Council

What shall be evidence of distress and expenses incurred

66 In all proceedings under this chapter whether in India or elsewhere, the production of a certificate signed by the local authority by which any seaman or apprentice named therein was relieved, or any expenses were incurred, under this chapter, to the effect that such seaman or apprentice was in distress and that such expenses were incurred in respect of such seaman or apprentice, shall be sufficient evidence that such seaman or apprentice was relieved, conveyed home or buried (as the case may be) at the expense of the revenues of India

Power of Governor General in Council to make rules

67 The Governor General in Council may, from time to time make rules to determine under what circumstances and subject to what conditions seamen or apprentices may be relieved and provided with passages under this chapter and generally to carry out the provisions of this chapter

All such rules shall be published in the *Gazette of India*, and shall thereupon have the force of law

CHAPTER IV

SHIP SURVEYORS

Local Government to appoint examiners

68 The Local Government may, from time to time appoint competent persons for the purpose of examining the qualifications of persons desirous of practising the profession of a ship surveyor at any port in the territories administered by such Government, and, subject to the control of the Governor General in Council, make rules— 1 of 1891

and to make rules as to qualification &c of ship surveyors

(*a*) for the conduct of such examinations and the qualifications to be required

(*b*) for the grant of certificates to qualified persons,

(*c*) for the fees to be paid for such examinations and certificates,

(*d*) for holding enquiries into charges of incompetency

petency and misconduct on the part of holders of such certificates, and

(*e*) for the suspension and cancelment of such certificates.

All such rules shall be published in the official Gazette, and shall thereupon have the force of law. Publication of rules

69 No person shall, in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section sixty-eight, exercise such profession in such port unless he holds a certificate granted under that section: No person to practise as ship surveyor unless qualified

Provided that nothing herein contained shall prevent any person employed by Lloyd's Register of British and Foreign Shipping or Bureau Veritas from discharging any of the duties of such employment, or apply to any person specially exempted by the Local Government from the operation of this section. Surveyors of Lloyd's and Veritas.

70. Any person exercising the profession of a ship surveyor in contravention of the provisions of section sixty-nine shall be punished with fine not exceeding one thousand rupees, and shall be incapable of maintaining any suit for any fee or reward for anything done by him in such exercise of such profession. Penalty for practising as ship surveyor without certificate.

CHAPTER V.

Receivers of Wreck

71. In this chapter "wreck" includes the following when found in the sea or any tidal water or on the shores thereof, that is to say: "Wreck" defined.

goods which have been cast into the sea and then sink and remain under water;

goods which have been cast or fall into the sea and remain floating on the surface;

goods

goods which are sunk in the sea, but are attached to a floating object in order that they may be found again;

goods which are thrown away or abandoned, and

a vessel abandoned without hope or intention of recovery.

Repeal of chapter V of Indian Ports Act, 1875.

72. Chapter V of the Indian Ports Act, 1875, and section 5 of Act No. XIII of 1878 (*An Act to provide for the recovery in British India of wages due to, and expenses incurred in respect of, certain seamen and apprentices, and to amend the Indian Merchant Shipping Act, 1875, and the Indian Ports Act, 1875*) are hereby repealed.

But nothing in this chapter shall be deemed to affect section 40 of the Indian Ports Act, 1875, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

Appointment of receivers.

73. The Local Government may, from time to time, by notification in the official Gazette, with the previous sanction of the Governor General in Council, appoint such persons as it thinks fit to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as it may from time to time prescribe.

Persons so appointed shall be called receivers of wreck.

Rules to be observed by person finding wreck.

74. Any person finding and taking possession of any wreck within any local limits for which a receiver of wreck has been so appointed, shall as soon as practicable—

if he be the owner;

(*a*) if he be the owner thereof, give the receiver of wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished;

if he be not the owner.

(*b*) if he be not the owner of such wreck, deliver the same to the receiver of wreck.

75. Whenever

Government or person finding wreck entitled to salvage

75 Whenever any wreck is found by the receiver of wreck or has been delivered to him in accordance with the provisions of section seventy-four by any person, not being the owner thereof, the Government or such other person so delivering such wreck, as the case may be, shall be entitled to receive a reasonable sum for salvage, having regard to all the circumstances of the case

Disputes concerning amount of salvage

Any dispute arising concerning the amount due under this section shall be determined by a Magistrate, upon application to him for that purpose by either of the disputing parties.

Notice to be given by receiver.

76. The receiver of wreck shall, on taking possession of any wreck, publish a notification, in such manner and at such place as the Local Government may from time to time prescribe in this behalf, containing a description of the same and the time at which and the place where the same was found.

Wreck may in certain cases be sold

77 If after the publication of such notification the wreck is unclaimed,

or if the person claiming the same fails to pay the amount due for salvage and for charges incurred by the receiver of wreck in respect thereof,

the receiver of wreck may sell such wreck by public auction, if of a perishable nature, forthwith, and if not of a perishable nature, at any period not less than six months after such notification as aforesaid.

Proceeds how applied.

78. On the realization of the proceeds of such sale, the amount due for salvage and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the balance shall be paid to the owner of the wreck, or, if no such person appear and claim the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Provided that he makes his claim within one year from the date of the sale.

Penalty for failure to

79 Any person omitting to give notice of the finding of, or to deliver, any wreck to the receiver of

wreck

give notice of, or to deliver, wreck to the receiver of wreck

wreck as required by section seventy-four shall be punished with fine which may extend to one thousand rupees, and in the case of omission to deliver any wreck, shall, in addition to such fine, forfeit all claim to salvage, and pay to the owner of such wreck if the same is claimed, or if the same is unclaimed to the Government, a penalty not exceeding twice the value of such wreck.

CHAPTER VI.

INSPECTION OF SHIPS WITH REGARD TO LIGHT AND FOG-SIGNALS.

Saving clause

80. Nothing in this chapter contained shall apply to any ship belonging to, or hired by, Her Majesty or the Secretary of State for India in Council or belonging to any foreign Prince or State.

Appointment of inspectors of lights and fog-signals

81. The Local Government may, from time to time, appoint persons to, or hired by, Her Majesty or the Secretary of State for India in Council or belonging to any foreign Prince or State.

Appointment of inspectors of lights and fog-signals

81. The Local Government may, from time to time, appoint persons to inspect, in any port, ships to which the regulations for preventing collisions at sea, issued under the provisions of the Merchant Shipping Act Amendment Act, 1862, or any other similar law for the time being in force, may apply, for the purpose of seeing that such ships are properly provided with lights and with the means of making fog-signals, in pursuance of such regulations or law, and may suspend or remove any person so appointed.

Every person so appointed shall in the port for which he is appointed have, for the purposes of such inspection, the powers given to detaining-officers by section eleven.

Notice of deficiency to be given to master or owner by such inspectors

82. If any such person finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

Ship not to be cleared by Customs-collector till inspector

83 Every notice so given shall be communicated in such manner as the Local Government may direct to the Customs-collector at any port from which such ship may seek to clear; and no Customs-collector to whom

whom such communication is made shall grant such ship a port-clearance or allow her to proceed to sea without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations or law

certifies it is properly provided with lights, &c.

CHAPTER VII.

MISCELLANEOUS.

84 Every offence punishable under chapter II, chapter III or chapter V may be tried in any district or presidency-town in which the offendor is found, as well as in any district or presidency-town in which it might be tried under the law relating to criminal procedure for the time being in force.

Offences triable where offender found

85 AND whereas it is also expedient to provide for the assistance of assessors in certain causes in Courts exercising Admiralty or Vice-Admiralty jurisdiction; it is hereby further enacted as follows:—

Assessors in causes of salvage, &c.

In any Admiralty or Vice-Admiralty cause of salvage, towage or collision, the Court, whether it be exercising its original or its appellate jurisdiction, may if it think fit, and upon request of either party to such cause shall, summon to its assistance, in such manner as the Court may by rule, from time to time, direct, two competent assessors; and such assessors shall attend and assist accordingly.

Every such assessor shall receive such fees for his attendance as the Court by rule prescribes. Such fees shall be paid by such of the parties as the Court in each case may direct.

Govt Central Press.—No 632 L D —25-3-80,—3,000

Schedule

ACT No. VIII OF 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 19th March, 1880)

An Act to correct a clerical error in the Indian Limitation Act, 1877.

IN the second schedule to the Indian Limitation Act, 1877, No. 171A, column three, for the words "The date of the plaintiff's death," the words "The sixtieth day from the date of the plaintiff's death" shall be, and be deemed to have always been, substituted.

[*Price one anna.*]

Government Central Press—No. 646 L. D.—10-3-80.—1,000.

BENGAL SECRETARIAT LIBRARY

ACT No. IX OF 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 30th April, 1880.*)

An Act to amend the Bombay Civil Courts Act, 1869.

Preamble.

WHEREAS, it is expedient to empower the Governor of Bombay in Council to fix and, from time to time, to alter the local limits of the ordinary jurisdiction of the Subordinate Judges appointed under the Bombay Civil Courts Act, 1869; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Bombay Civil Courts Act, 1880:"

Commencement.

and it shall come into force at once.

Insertion of a new section after section 22 of the Bombay Civil Courts Act.

2. In the said Act, after section 22, the following section shall be inserted:—

Power to fix local limits of jurisdiction of Subordinate Judges.

"22A. The Governor of Bombay in Council may, by notification in the official Gazette, fix, and, by a like notification, from time to time alter, the local limits of the ordinary jurisdiction of the Subordinate Judges."

Limits already fixed to be deemed to have been fixed according to law.

3. All orders issued by the Governor of Bombay in Council previous to the passing of this Act, fixing or altering the local limits of the jurisdiction of a Subordinate Judge, shall be deemed to have been issued in accordance with law.

[*Price one anna.*]

Government Central Press.—No. 73 L.D.—17-5-80.—3,400.

ACT No. X OF 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st May, 1880).

An Act to declare the law in force in certain lands annexed to the Multán District.

Preamble

WHEREAS the lands occupied by the Indus Valley State Railway, and the works, premises and stations thereof, within the limits of the Baháwalpur State, which have been ceded to the British Government in full sovereignty by that State, have been declared by the Governor General in Council to be subject to the Lieutenant-Governorship of the Panjáb, and have by the Lieutenant-Governor of the Panjáb been annexed to the Multán District,

and whereas it is expedient that the law in force in the said lands should be the same as the law in force in the Multán District, It is hereby enacted as follows:—

Enactments in force in Multán District to apply

1. All enactments which, on the second day of September, 1879, were in force in the Multán District and not in the said lands shall be deemed to have come into force in the said lands on that day.

[*Price one anna*]

Government Central Press.—No 56 L. D.—6-6-80—3,400

ACT No. XI OF 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL

(Received the assent of the Governor General on the 2nd July, 1880)

An Act to provide for the appointment of an Additional Recorder of Rangoon, and for other purposes.

Preamble

WHEREAS it is expedient to provide for the temporary appointment, from time to time, of an Additional Recorder to assist the Recorder of Rangoon;

and whereas it is also expedient to remove certain doubts which exist as to the jurisdiction of the said Recorder under section sixty-two of the Burma Courts Act, 1875; It is hereby enacted as follows:—

Short title

1 This Act may be called "The Burma Courts Act, 1880";

Commencement

and it shall come into force at once.

Appointment of Additional Recorder

2 The Governor General in Council may, from time to time, by notification in the *Gazette of India*, appoint, to be an Additional Recorder and to sit as such in the Court of the Recorder of Rangoon, such person as he thinks fit, being a Barrister of not less than five years' standing, or a person who has for at least three years served as a District Judge, or exercised the like powers as those of a District Judge

Every person so appointed shall hold his office during the pleasure of the Governor General in Council.

Cases to be disposed of by Additional Recorder

3 Every Additional Recorder appointed under section two shall sit at such of the places at which, under the said Act, the Recorder's Court can be held,

[*Price one anna and six pies*]

as the Chief Commissioner of British Burma, from time to time, directs, and shall dispose of such cases, now or hereafter pending in the said Recorder's Court under any enactment for the time being in force, as the said Chief Commissioner or Recorder may, from time to time, direct, and in the disposal of such cases shall administer the same law, follow the same procedure, exercise the same powers and use the same seal as would be administered, followed, exercised and used by the said Recorder in like cases.

All decrees, orders and sentences made or passed in such cases by any such Additional Recorder shall, for the purposes of the law relating to appeals, references and revision, be deemed to be made or passed by the Recorder.

The Chief Commissioner may at any time cancel any direction given under this section requiring the Additional Recorder to dispose of a case.

Additional Recorder to sit in Special Court in place of Recorder.

4. The Additional Recorder shall also sit in the place of the Recorder as a member of the Special Court established under chapter V of the said Act, for the disposal of such cases as the Chief Commissioner directs, and shall, while so sitting, take precedence according to the same rule as the Recorder, and exercise all the powers and perform all the duties which under the said Act may be exercised and performed by the Recorder as a member of such Special Court.

Section 80 of the Burma Courts Act to apply when Additional Recorder sits in Special Court

5. Whenever, in cases tried by the Judicial Commissioner and Additional Recorder of Rangoon sitting together as a Special Court without a Commissioner, a difference of opinion arises, the rules prescribed by section eighty of the said Act shall be observed, the words "Additional Recorder" being substituted for the word "Recorder" wherever it occurs in the said rules.

Amendment of section 62 of the Burma Courts Act, 1875.

6. For the first paragraph of section sixty-two of the said Burma Courts Act, 1875, the following paragraph shall be substituted:—

"Notwithstanding anything hereinbefore contained,

tained, the Recorder shall have all the powers of a High Court, under the Code of Criminal Procedure, in respect of offences committed by European British subjects and persons charged jointly with European British subjects within British Burma."

Government Central Press.—No. 83 L. D.—19-7-80.—3,400

George in Council. But any other Local Government may, from time to time, by notification in the official Gazette, extend it to the whole or any part of the territories under its administration.

Power to appoint Kázis for any local area

2 Whenever it appears to the Local Government that any considerable number of the Muhammadans resident in any local area desire that one or more Kázis should be appointed for such local area, the Local Government may, if it thinks fit, after consulting the principal Muhammadan residents of such local area, select one or more fit persons and appoint him or them to be Kázis for such local area.

If any question arises whether any person has been rightly appointed Kázi under this section, the decision thereof by the Local Government shall be conclusive.

The Local Government may, if it thinks fit, suspend or remove any Kázi appointed under this section who is guilty of any misconduct in the execution of his office, or who is for a continuous period of six months absent from the local area for which he is appointed, or leaves such local area for the purpose of residing elsewhere, or is declared an insolvent, or desires to be discharged from the office, or who refuses or becomes in the opinion of the Local Government unfit, or personally incapable, to discharge the duties of the office.

Náib Kázis.

3 Any Kázi appointed under this Act may appoint one or more persons as his náib or náibs to act in his place in all or any of the matters appertaining to his office throughout the whole or in any portion of the local area for which he is appointed, and may suspend or remove any náib so appointed.

When any Kázi is suspended or removed under section two, his náib or náibs (if any) shall be deemed to be suspended or removed, as the case may be.

Nothing in Act to confer judicial or administrative powers, or

4 Nothing herein contained, and no appointment made hereunder, shall be deemed—

(*a*) to confer any judicial or administrative powers on any Kázi or Náib Kázi appointed hereunder; or

(*b*)

(*b*) to render the presence of a Kází or Náib Kází necessary at the celebration of any marriage or the performance of any rite or ceremony; or — to render the presence of Kází necessary, or

(*c*) to prevent any person discharging any of the functions of a Kází. — to prevent any one acting as Kází.

Government Central Press.—No 57 L. D.—3-8-80.—3,400

THE VACCINATION ACT, 1880.

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[*Price three annas and six pies.*]

ACT No. XIII OF 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 9th July 1880).

An Act to give power to prohibit inoculation, and to make the vaccination of children compulsory, in certain Municipalities and Cantonments.

Preamble. WHEREAS it is expedient to give power to prohibit inoculation, and make the vaccination of children compulsory, in certain municipalities and cantonments; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Vaccination Act, 1880": and

Application. it shall apply only to such municipalities and cantonments situate in the territories administered respectively by the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Assam, Ajmer and Coorg as it may be extended to in manner hereinafter provided.

Interpretation-clause. 2. In this Act unless there is something repugnant in the subject or context,—

"Municipal Commissioners". (1) the expression "Municipal Commissioners" means a body of Municipal Commissioners or a Municipal Committee constituted under the provisions of any enactment for the time being in force:

"parent". (2) "parent" means the father of a legitimate child and the mother of an illegitimate child:

"guardian". (3) "guardian" includes any person who has accepted or assumed the care or custody of any child:

"unprotected child". (4) "unprotected child" means a child who has not been protected from small-pox by having had that disease

disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination:

"inoculation" (5) "inoculation" means any operation performed with the object of producing the disease of small-pox in any person by means of variolous matter:

"vaccination-circle" (6) "vaccination-circle" means one of the parts into which a municipality or cantonment has been divided under this Act for the performance of vaccination:

"vaccinator" (7) "vaccinator" means any vaccinator appointed under this Act to perform the operation of vaccination, or any private person authorized by the Local Government in manner hereinafter provided to perform the same operation; and includes a "Superintendent of vaccination":

"vaccination-season" (8) "vaccination-season" means the period from time to time fixed by the Local Government for any local area under its administration by notification in the official Gazette, during which alone vaccination may be performed under this Act.

Extension of Act to municipalities

3 A majority in number of the persons present at a meeting of the Municipal Commissioners specially convened in this behalf may apply to the Local Government to extend this Act to the whole or any part of a municipality, and thereupon the Local Government may, if it thinks fit, by notification published in the official Gazette, declare its intention to extend this Act in the manner proposed.

Any inhabitant of such municipality or part thereof who objects to such extension may, within six weeks from the date of such publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration. When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (when such objections have been so sent) if

if in its opinion they are insufficient, may by like notification effect the proposed extension.

Extension to cantonments.

4. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, extend this Act to the whole or any part of a military cantonment.

Power to withdraw local area from operation of Act

5. The Local Government may, by notification in the official Gazette, withdraw any local area in a municipality, or with the previous sanction of the Governor General in Council, any local area in a cantonment, from the operation of this Act.

Prohibition of inoculation

6. In any local area to which the provisions of this Act apply, inoculation shall be prohibited; and

Inoculated persons not to enter, without certificate, local area subject to Act.

no person who has undergone inoculation shall enter such area before the lapse of forty days from the date of the operation, without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

Vaccination-circles.

7. Every local area to which this Act applies shall be a vaccination-circle, or shall in manner hereinafter provided be divided into a number of such circles;

Vaccinators,

one or more vaccinators shall be appointed in manner hereinafter provided for each such circle; and

Superintendent of vaccination.

one or more Superintendents of vaccination shall be appointed in manner hereinafter provided for each such local area.

Private vaccinators

8. The Local Government may by written license authorize private vaccinators to perform vaccination in any vaccination-circle, and may suspend or cancel any such license.

Unprotected children to be vaccinated.

9. When any unprotected child, having attained the age of six months, has resided for a period of one month during the vaccination-season in any local area to which the provisions of this Act apply, and has not at the expiration of such period attained the age,

if

if a boy, of fourteen years, and if a girl, of eight years, the parent or guardian of such child shall take it, or cause it to be taken, to a vaccinator to be vaccinated, or send for a vaccinator to vaccinate it.

Vaccinator to vaccinate children, or deliver certificates of postponement.

Such vaccinator shall vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation, or shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate under his hand to the effect that the child is in a state unfit for vaccination for the whole or part of the current vaccination-season.

Inspection after vaccination.

10. The parent or guardian of every child which has been vaccinated under section nine shall, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to a vaccinator for inspection, or get it inspected at his own house by a vaccinator; and

such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

Procedure when vaccination is successful.

11. When it is ascertained at the time of inspecting a child under section ten that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected.

Procedure when vaccination is unsuccessful.

12. When it is ascertained as aforesaid that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated and subsequently inspected in manner hereinbefore provided.

Procedure when child is unfit for vaccination.

13. A certificate granted under section nine showing the unfitness of a child for vaccination shall remain in force for the period stated therein, and on the termination of that period, or, if that period terminates after the vaccination-season is over, when the next vaccination-season begins, the parent or guardian

guardian of such child shall take the child, or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator:

Renewal of postponement certificates.

Provided that if the child is still found to be in a state unfit for vaccination, the certificate granted under section nine shall be renewed.

Certificates of insusceptibility of successful vaccination.

14. If the Superintendent of vaccination is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand to that effect; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

What lymph to be used.

15. The vaccination of a child shall ordinarily be performed with such lymph as may be prescribed by the rules to be made under this Act:

Provided that,

1st, if animal-lymph is so prescribed and the parent or guardian of any child desires that such child shall be vaccinated with human lymph, it shall be so vaccinated; and

2nd, if in any local area in which animal-lymph is procurable human lymph is so prescribed, and the parent or guardian of any child desires that such child should be vaccinated with animal-lymph, and tenders to the vaccinator the amount of such fee, not exceeding one rupee, as may be fixed by such rules in this behalf, such child shall be so vaccinated.

No fee to be charged except by private vaccinator.

16. No fee shall be charged by any vaccinator except a private vaccinator to the parent or guardian of any child for any of the duties imposed on such vaccinator by or under the provisions of this Act:

Proviso.

Provided that it shall be lawful for a vaccinator to accept a fee for vaccinating a child by request of the parent or guardian elsewhere than in the circle for which such vaccinator is appointed.

Duties of Superintendent of vaccination.

17. The Superintendent of vaccination, in addition to the other duties imposed on him by or under the

the provisions of this Act, shall ascertain whether all unprotected children, under the age of fourteen years if boys, and under the age of eight years if girls, within the local area under his superintendence have been vaccinated; and, if he has reason to believe that the parent or guardian of any such child is bound by the provisions hereinbefore contained to procure the vaccination of such child or to present it for inspection, and has omitted so to do, he shall personally go to the house of such parent or guardian, and there make enquiry, and shall, if the fact is proved, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated, or (as the case may be) that it be presented for inspection, at a time and place to be specified in such notice.

Notice to parent or guardian neglecting to comply with Act.

Order by Magistrate when notice not complied with

18. If such notice is not complied with, the Superintendent of vaccination shall report the matter to the Magistrate of the District, or such Magistrate as the Local Government or the Magistrate of the District may from time to time appoint in this behalf; and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order.

Procedure when order not obeyed.

If on such date the order has not been obeyed, the Magistrate shall summon the parent or guardian before him, and, unless just cause or excuse is shown, shall deal with the disobedience as an offence punishable under section twenty-two.

Magistrates to be non-official Natives.

The Magistrates appointed under this section shall, as far as is conveniently practicable, be Natives of India, and not paid servants of the Government.

Power to make rules for municipalities

19. When this Act has been applied to any municipality or any part thereof, the Municipal Commissioners may, from time to time, make rules consistent with this Act for the proper enforcement of this Act within the limits to which it applies. Such rules shall be made in the manner in which, under the law for

for the time being in force, the Commissioners make rules or bye-laws for the regulation of other matters within the limits of the municipality, and shall, when confirmed by the Local Government and published in the official Gazette, have the force of law:

Provided that the Local Government may at any time rescind or modify any such rule.

Power to make rules for cantonments

20. When this Act has been applied to any cantonment or any part thereof, the Local Government may, from time to time, subject to the control of the Governor General in Council, make such rules.

What rules under sections 19 and 20 may provide for

21. The rules to be made for any local area under sections nineteen or twenty may, among other matters, provide for—

(*a*) the division of such local area into circles for the performance of vaccination;

(*b*) the appointment of a place in each vaccination-circle as a public vaccine-station, and the posting of some distinguishing mark in a conspicuous place near such station;

(*c*) the qualifications to be required of public vaccinators and Superintendents of vaccination;

(*d*) the authority with which their appointment, suspension and dismissal shall rest;

(*e*) the time of attendance of public vaccinators at the vaccine-stations, and their residence within the limits of the vaccination-circles;

(*f*) the distinguishing mark or badge to be worn by them;

(*g*) the amount of fee chargeable by private vaccinators, and their guidance generally in the performance of their duties;

(*h*) the facilities to be afforded to people for procuring the vaccination of their children at their own houses;

(*i*) the grant and form of certificates of successful vaccination, of unfitness for vaccination or of insusceptibility of vaccination;

(*j*) the

(*j*) the nature of the lymph to be used and the supply of a sufficient quantity of such lymph;

(*k*) the fee to be paid for vaccination with animal-lymph under section fifteen;

(*l*) the fee to be paid to a public vaccinator for vaccinating a child beyond the vaccination-circle at the request of the parent or guardian of the said child;

(*m*) the preparation and keeping of registers showing—

the names of children born in such local area on or after the date of the application of this Act;

the names of unprotected children born in such local area previous to the application of this Act, and who are, at the time this Act is applied, under the age of fourteen years if boys, and of eight years if girls;

the names of unprotected boys and girls respectively under those ages brought within such local area at any time after the application of this Act and who have resided there for a month;

the result of each vaccination or its postponement, and the delivery of certificates, if any;

(*n*) the assistance to be given by the Municipal Commissioners and municipal servants in the preparation of these registers, and in other matters; and

(*o*) the preparation of vaccination-reports and returns.

Punishment of offences

22 Whoever commits any of the undermentioned offences (that is to say):—

(*a*) violates the provisions of section six,

(*b*) neglects without just excuse to obey an order made under section eighteen,

(*c*) breaks any of the rules made under section nineteen or twenty, or

(*d*) neglects without just cause to obey an order made under section eighteen after having been previously

viously convicted of so neglecting to obey a similar order made in respect of the same child,

shall be punished as follows (that is to say) :—

in the case of the offence mentioned in clause (*a*), with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both ;

in the case of the offences mentioned in clauses (*b*) and (*c*), with fine which may extend to fifty rupees ; and

in the case of the offence mentioned in clause (*d*), with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Municipal funds to receive fines and meet expenditure

23 The amount of all fees and fines realized, and the amount of all expenditure incurred, under this Act in any municipality shall respectively be credited to and paid from the municipal fund.

Government Central Press.—No. 56 L. D.—2-5-80.—2,400.

ACT No. XIV OF 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 3rd November, 1880.*)

An Act to provide for certain matters in connection with the taking of the Census.

WHEREAS it has been determined to take a census of British India, and it is expedient to provide for certain matters in connection with the taking of such census; It is hereby enacted as follows:— Preamble

1. This Act may be called "The Indian Census Act, 1880," and shall come into force on the passing thereof. Short title. Commencement.

2. This section and sections three, four and thirteen extend to the whole of British India. Local extent.

The remaining sections extend only to such parts of British India as the Local Government may, from time to time, by notification in the official Gazette, direct.

3. The Local Government may appoint any person by name or in virtue of his office to take, or aid in or supervise the taking of, the census within any specified local area. Appointment of Census-officers.

Persons so appointed shall be called "Census-officers."

The Local Government may delegate to such authority as it thinks fit the power conferred by this section.

4. A declaration in writing, signed by any officer authorized by the Local Government in this behalf, that any person has been duly appointed a Census-officer for any local area shall be conclusive proof of such appointment. Proof of appointment of Census-officer.

All

[*Price two annas.*]

Census-officers to be deemed public servants

All Census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Duties of Census-officers how to be discharged in certain cases

5. (*a*) Every military or naval officer in command of any body of men belonging to Her Majesty's military or naval forces or of any vessel of war,

(*b*) every person (except a pilot or harbour-master) having charge or control of a vessel,

(*c*) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock-up, or of any public, charitable, religious or educational institution,

(*d*) every keeper or manager of any sarái, hotel, boarding-house, lodging-house or club, and

(*e*) every occupant of immoveable property having at the time of taking the census not less than fifty persons employed under him on or in such property,

shall, if so required by the Magistrate of the District, or, in the towns of Calcutta, Madras and Bombay, by such officer as the Local Government may appoint in this behalf, perform such of the duties of a Census-officer in relation to the persons who at the time of taking the census are under his command or charge, or inmates of his house or present on or in such property, as such Magistrate or officer may, by an order written, printed or lithographed, direct.

All the provisions of this Act relating to Census-officers shall apply (so far as they are applicable) to all such persons while performing such duties; and any person refusing or neglecting to perform any duty which he is directed under this section to perform shall be deemed to have committed an offence under section 187 of the Indian Penal Code.

Power of Magistrate of District to call upon certain persons to give assistance

6 The Magistrate of the District may, by an order written, printed or lithographed, call upon all owners and occupiers of land, tenure-holders, farmers, assignees of land-revenue and lessees of fisheries under the Burma Fisheries Act, 1875, in his district, or their agents, and upon all members of panchâyats appointed

appointed in his district under Bengal Act No. VI of 1870 (*to provide for the appointment, dismissal and maintenance of Village Chaukidárs*), to give such assistance as he needs towards the taking of a census of the persons who are at the time of taking the census on the lands of such owners, occupiers, holders, farmers and assignees, within the limits of such fisheries or in the villages for which such panchâyats are appointed, as the case may be.

Such order shall specify the nature of the assistance required, and such owners, occupiers, holders, farmers, assignees, lessees, or their agents, and the members of such panchâyats shall be bound to obey it.

Census-officers empowered to ask questions.

7. Every Census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Local Government and published in the official Gazette, he may be directed to ask.

Obligation to answer questions.

8. Every person of whom any question is asked under section seven shall be legally bound to answer such question to the best of his knowledge or belief:

Provided that no person shall be bound to state the name of any female member of his household: and that no woman shall be bound to state the name of her husband or deceased husband.

Occupier of house, &c., to allow access.

9. Every person occupying any house, enclosure, vessel or other place shall allow the Census-officers such access thereto as they may require for the purposes of the census, and as, having regard to the customs of the country, may be reasonable.

Occupier of house to fill up schedule.

10. Subject to such orders as the Local Government may issue in this behalf, any Census-officer may leave, or cause to be left, at any dwelling-house within the local area for which he is appointed, a schedule for the purpose of being filled up by the occupier of such house or of any specified part thereof with such particulars as the Local Government may direct regarding the persons present in such house or part at the time of taking the census.

When

When any such schedule has been so left, the occupier of the house or part to which it relates shall fill up the same to the best of his knowledge or belief, so far as regards the persons present in such house or part, as the case may be, at the time aforesaid, and shall sign his name thereto, and, when so required, shall deliver the schedule so filled up and signed to the Census-officer or to such person as he may direct.

Penalty for failing to fill up schedule, &c., or making false return

Any occupier of a dwelling-house or part thereof who knowingly and without sufficient cause fails to comply with the provisions of this section, or makes any false return hereunder, shall be punished for every such offence, if it does not amount to an offence within the provisions of the Indian Penal Code, with fine which may extend to fifty rupees

Penalty for misconduct of Census-officers

11 Any Census-officer who, knowingly and without sufficient cause, disobeys the instructions published by the Local Government under section seven, puts any offensive or improper question, or makes any false return, shall be punished for every such offence, if it does not amount to an offence within the provisions of the Indian Penal Code, with fine which may extend to fifty rupees.

Jurisdiction in prosecutions

12 The Local Government may, by notification in the official Gazette,

(*a*) declare before what classes of Magistrates prosecutions under this Act, or for neglecting or refusing to do anything required by this Act to be done, may be instituted; and

(*b*) direct that no such prosecution shall be instituted except with its previous sanction, or with the previous sanction of some officer authorized by it in this behalf.

Unless and until a notification is published under clause (*a*) of this section, all prosecutions under this Act shall, in the towns of Calcutta, Madras and Bombay, be instituted before a Presidency Magistrate, and elsewhere, before the Magistrate of the District.

Records of

13. Notwithstanding anything to the contrary contained

contained in the Indian Evidence Act, 1872, no entry in any book, register or record made by a Census-officer in the discharge of his duty as such officer shall be admissible as evidence in any civil proceeding or any proceeding under chapter forty or chapter forty-one of the Code of Criminal Procedure or chapter eighteen of the Presidency Magistrates' Act, 1877.

census not admissible in evidence in certain proceedings

Government Central Press.—No 188 L. D.—24-11-80.—2 900.

ACT No. XV OF 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 3rd November, 1880.*)

An Act to amend the Bombay Revenue Jurisdiction Act, 1876.

Preamble.

WHEREAS it is expedient to amend the Bombay Revenue Jurisdiction Act, 1876, in manner hereinafter appearing, and to make further provision for the recovery of certain advances made in the territories administered by the Governor of Bombay in Council for purposes other than those specified in the Land Improvement Act, 1871; It is hereby enacted as follows:—

Short title. Commencement.

1. This Act may be called "The Bombay Revenue Jurisdiction Act, 1880"; and it shall come into force at once.

Repeal of sections 8, 9, 10 and 17 of Act No. X of 1876.

2. Sections eight, nine, ten and seventeen of the said Bombay Revenue Jurisdiction Act, 1876, are hereby repealed:

Provided that the repeal hereby effected, of the first clause of the said section seventeen, shall not operate in any Scheduled District unless and until the Bombay Land-revenue Code, 1879, has been extended to such district:

Provided also that the repeal of the second clause of the said section seventeen shall not be deemed to render invalid or illegal anything made valid or legal by such clause.

Addition to section 32 of Act No. XIV of 1869 as amended by section 15 of Act No. X of 1876.

3. To section thirty-two of the Bombay Civil Courts Act, No. XIV of 1869, as amended by section fifteen of the said Bombay Revenue Jurisdiction Act, 1876, the following words shall be added:—

"Provided

[*Price one anna and three pies.*]

Proviso.

"Provided that nothing in this section shall be deemed to apply to any suit merely because—

"(*a*) a municipal corporation constituted under Bombay Act No. VI of 1873, or any other enactment for the time being in force, is a party to such suit and an officer of Government is in his official capacity a member of such corporation, or

"(*b*) an officer of a Court appointed under the Code of Civil Procedure, section 456, last paragraph, or selected under Act No. XX of 1864 (*for making better provision for the care of the persons and property of minors in the Presidency of Bombay*), section 9, is, in virtue of such appointment or selection, a party to such suit."

[1891

Governor in Council to make rules as to certain advances for purposes other than those specified in Act No. XXVI of 1871.

4. The Governor of Bombay in Council may, from time to time, with the previous sanction of the Governor General in Council, prescribe rules as to advances to be made in the territories administered by the said Governor in Council to holders (as defined in section 3 (11) of the Bombay Land-revenue Code, 1879,) of arable land, for the relief of distress, the purchase of seed or cattle, or any other purpose not specified in the Land Improvement Act, 1871, but connected with agricultural objects.

All such rules shall be published in the local official Gazette.

Recovery of such advances.

5. Every advance for any such purpose which may heretofore have been made by or on behalf of the Government in the said territories, and every advance which may hereafter be made under such rules, shall, when it becomes due, be recoverable, with the interest (if any) accrued due thereon, from the person to whom such advance was made, or from any person who has become surety for the repayment thereof, as if it were an arrear of land-revenue due by the person to whom the advance was made or by his surety.

Government Central Press.—No. 136 L. D.—24-11-80.—2,500.

ACT No. XVI OF 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 26th December, 1880)

An Act to regulate the Traffic on the Madras Irrigation and Canal Company's Canal.

Preamble

WHEREAS, by the twenty-seventh clause of an Indenture made on the third day of June, one thousand eight hundred and sixty-three, between the Secretary of State for India in Council of the one part, and the Madras Irrigation and Canal Company (hereinafter referred to as "the Company") of the other part, it was, amongst other things, provided that the Company should be authorized and empowered to charge such tolls for navigation, and such fares or rates for the conveyance of passengers, animals and goods, as should not exceed the rates, tolls or fares which should be defined and sanctioned by an Act of the Indian Legislature; and that the Company should not in any case charge any higher tolls, fares or rates whatsoever; and whereas it is expedient to define and sanction, for the purposes of the said clause, fares and rates for the conveyance of passengers, animals and goods;

And whereas it is also expedient to empower the Company to make rules for the conveyance of passengers, animals and goods upon, and the use, management and working of, its canal; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Madras Irrigation and Canal Company's Act, 1880;"

Commencement

and it shall come into force at once.

2. The

[*Price two annas*]

Fares and rates for conveyance of passengers and goods.

2. The fares and rates specified in the schedule hereto annexed shall be deemed to be the fares and rates defined and sanctioned for the purposes of the said clause.

Company empowered to make working rules for its canal.

3. The Company may, from time to time, make rules for the following purposes, that is to say:—

(*a*) for licensing vessels (other than those of the Company) to navigate the canal and for registering vessels so licensed and denoting upon each its carrying capacity;

(*b*) for fixing the maximum number of passengers or animals, and the maximum amount of goods, which vessels navigating the canal may carry; and

(*c*) generally for regulating the traffic upon, and the use and management of all vessels upon, the canal.

Penalty for breach of rules.

4. Any such rule may contain a provision that any person committing a breach of it shall be liable to a fine which may extend to fifty rupees, or, in default of payment of such fine, to simple imprisonment for a term which may extend to one month.

Notification of rules.

5. All such rules shall, when sanctioned by the Governor of Fort St. George in Council and published in the *Fort St. George Gazette*, have the force of law.

Power to cancel rules.

The said Governor in Council may at any time cancel any such rule.

Copy and translation of Act, &c., to be shown at stations and on vessels.

6. A copy of this Act and the rules made hereunder, and of the Time-table and Tariff of Charges which may from time to time be observed for the Company's vessels navigating the canal, shall be exhibited, both in English and in Telugu, in some conspicuous place at each station of the canal, and in each vessel employed by the Company in conveying passengers, animals or goods over the canal.

Penalty for failure to exhibit copy and translation as required by section 6.

7. Any servant of the Company in charge of any such station or vessel at or in which the provisions of section six are not complied with shall be punished with fine which may extend to ten rupees; and the Company

Company shall forfeit to Government the sum of fifty rupees for every day during which such provisions are not complied with at or in any such station or vessel.

Place of trial

8. Any person committing any offence against this Act or the rules made under it shall be triable for such offence at any place at which he may be, or which the Governor of Fort St. George in Council may, from time to time, by notification in the official Gazette, direct, as well as in any other place in which he might be tried under any law for the time being in force.

Saving of prosecutions under other laws.

9. Nothing in this Act shall be deemed to prevent any person from being arrested, prosecuted or punished under any other law for any act or omission which constitutes an offence against this Act or the rules made under it:

Provided that no person shall be punished twice for the same offence.

THE SCHEDULE.

(*See section 2.*)

Fares and Rates

PASSENGERS.

	Pies.
First class, per passenger, per mile or fraction of a mile ...	1 4 4
Second class, per ditto, ditto	5 6
Third class, per ditto, ditto { Mail (fast) ...	3 2
{ Ordinary ...	2·0

ANIMALS.

	Pies.
A horse or mule taken singly, per mile or fraction of a mile . ..	1 4 4
	Annas.
Cattle, horses and mules, per 10 or fraction of 10, per ditto	6 0
	Calves

THE SCHEDULE.—*continued.*

	Annas.
Calves needing only half the space of a cow, to be reckoned as half.	
Sheep, goats and pigs, per 60 or fraction of 60, per ditto	6·0
Asses, half the rates for horses.	

N. B.—Dogs, if conveyed at all, will not be charged for, no accommodation being provided for them.

Elephants and camels will not be conveyed at all.

Goods.

Heavy Goods, i.e., Goods weighing above 180 lbs.

	Pies.
First class (which includes all articles for the time being comprised in the special and first classes, Madras Railway,) per ton, per mile or fraction of a mile	7·2
Second class (which includes all articles for the time being comprised in the second and third classes, Madras Railway,) per ditto, ditto ...	12·8
Third class (which includes all articles for the time being comprised in the fourth and fifth classes, Madras Railway,) per ditto, ditto ...	24·0

Fractions of a ton will be charged for proportionately, fractions of 20 lbs. being reckoned as 20 lbs.

N. B.—Carriages or vehicles will not be conveyed.

Parcels.

Parcels

DISTANCE	EXPEDITE OF COLLECTION AND DELIVERY																	
	10 lbs and under		Above 10 and not above 20 lbs		Above 20 lbs and not above 40 lbs		Above 40 and not above 80 lbs		Above 80 and not above 80 lbs		Above 80 and not above 100 lbs		Above 100 and not above 130 lbs		Above 130 and not above 140 lbs		Above 140 and not above 160 lbs		Above 160 and not above 180 lbs	
	Rs.	A P	Rs.	A P	Rs.	A P	Rs.	A P	Rs.	A P	Rs.	A P	Rs.	A P	Rs.	A P	Rs.	A P	Rs.	A P
50 miles and under	0	2 6	0	3 9	0	5 0	0	6 3	0	7 6	0	8 9	0	10 0	0	11 3	0	12 6	0	13 9
Above 50 and not above 100 miles	0	5 0	0	7 6	0	10 0	0	12 6	0	15 0	1	1 6	1	4 0	1	6 6	1	9 0	1	11 6
,, 100 ,, 150 ,,	0	7 6	0	11 3	0	15 0	1	2 9	1	6 6	1	10 3	1	14 0	2	1 9	2	5 6	2	9 3
,, 150 ,, 200 ,,	0	10 0	0	15 0	1	4 0	1	9 0	1	14 0	2	3 0	2	8 0	2	13 0	3	2 0	3	7 0

The rates for bread, meat, fish poultry (dead or alive), ice fruit plants, vegetable and flowers will be half parcel rates as shown above.

Govt Central Press —No 804 L. D —7 1-81.—8,600

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[*Price one rupee four annas and three pies.*]

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Govt. Central Press—No. 8 L D—30-5-81,—3,500.